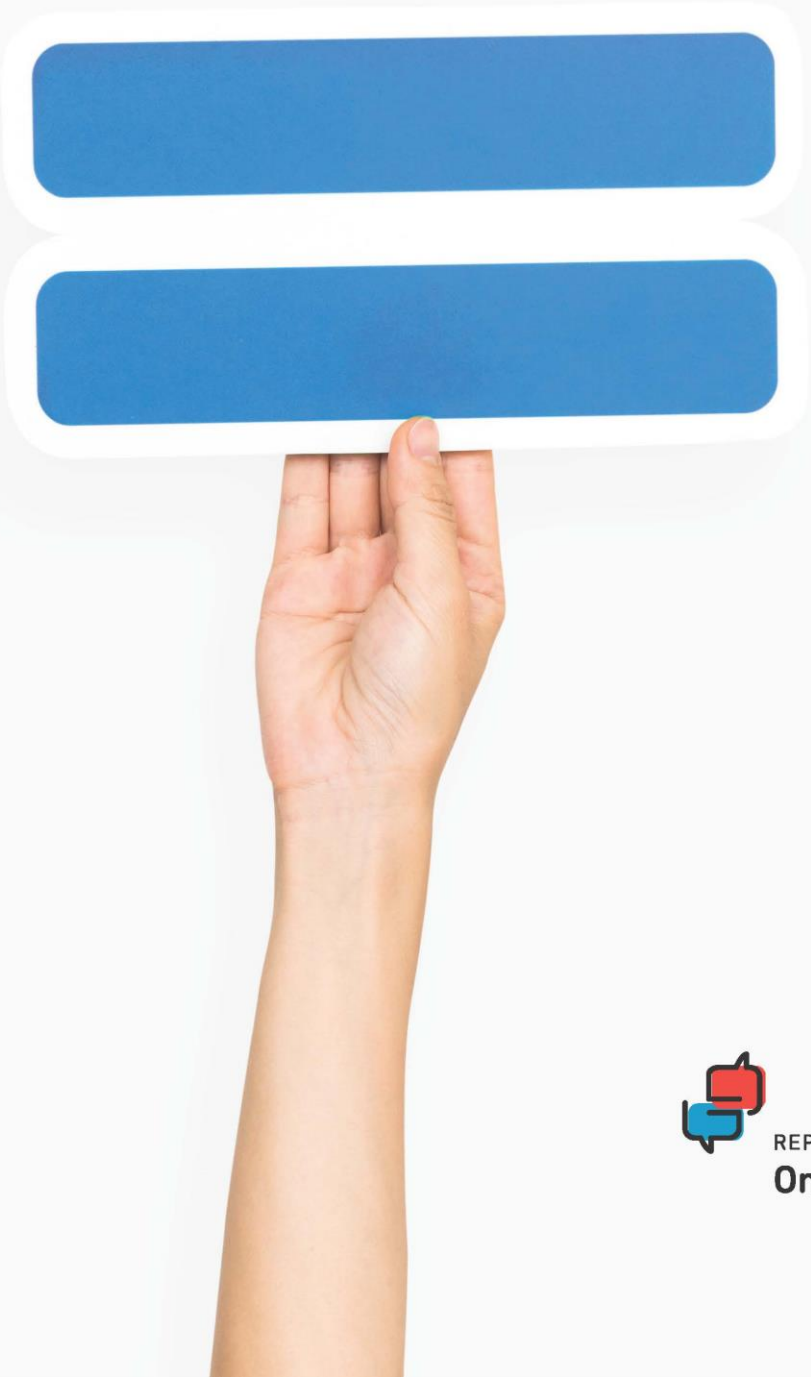
Annual Report of the Ombudswoman of Croatia for 2018



REPUBLIC OF CROATIA
Ombudsman

CONTENTS

1. INTRODUCTION

The 2018 Annual Report of the Ombudswoman is the key mechanism in the work of this institution, and has been prepared in accordance with the Ombudsman Act, the Anti-Discrimination Act and the National Preventive Mechanism Act. It is based on 5082 cases that we acted on, the field work, research and data collected from several hundred stakeholders, including public authorities, civil society organisations, trade unions, employers, universities, churches, religious organisations and many others., and, along with an analysis and assessment of the status of protection of human rights and freedoms in the RC, also contains 209 recommendations for removing systematic shortcomings and irregularities, and an assessment of the degree in which the competent bodies have implemented our earlier recommendations. A noticeable increase in their implementation in 2018 is encouraging, as the competent bodies act, or have acted on 65% of the recommendations from the 2017 Report, which shows the importance of the support provided by the Croatian Parliament for their implementation. The Parliamentary Committee for Human Rights and the Rights of National Minorities emphasised the importance of systematic monitoring of the recommendations and called on public authorities to appoint coordinators for cooperation with the Office, which they have done. Good cooperation is of exceptional importance, as implementing the recommendations has an immediate effect on the protection of human rights and combating discrimination, and thus on the lives of Croatian citizens.

Croatia continued to face emigration in 2018, with citizens stating as the most common reasons the poorly organised and badly run state, corruption and giving preference to employing members of political parties regardless of their competences, as well as a feeling of resignation and hopelessness. At the same time, there is a notable lack of long-term thinking, such as in the area of social welfare, for instance – strategic documents are not adopted or have no continuity, and regulations often change, hindering the work of experts and causing inconsistencies and irregularities in their work, while a lack of results of all system reforms so far is primarily reflected in the lack of support to the beneficiaries, the most vulnerable members of the society, with tragic events as consequences.

Despite a growth of the GDP, the poverty risk rate has increased, especially for older persons, with social services largely unavailable for many. Considerable differences in pensions cement inequality and a feeling of injustice, while the EC recommendation to harmonise pensions earned in line with regular and special regulations has not been adopted. The inequalities in regional development are best reflected in the availability of services in rural areas and on the islands, while the lack of health care teams, long waiting lists, inadequately equipped premises, lack of health care staff and their overworkload, but also inappropriate communication and unprofessional conduct, provided some of the grounds for complaints about the inability to exercise the right to health care.

Citizens also expressed dissatisfaction with the quality of court decisions, they feel unequal before the law, and do not consider the judicial power independent from the executive. Though increased,

the funding of free legal aid remains inadequate, and the dysfunctionality of this system puts citizens into unequal status based on their financial status, thus preventing the most vulnerable from exercising their rights. Despite expectations that the implementation of the new Croatian War Veterans Act would solve their accumulated problems, we received 70% more complaints by war veterans related to both recognition of their status and difficult social status.

Despite a shortage of labour, citizens pointed at irregularities in employment, concluding fixed-term work contracts, unlawful and unpaid overtime work, illegal lay-offs, irregularities in the payment of salaries, but also abuse at work, while many do not know how to protect their rights. The field of work and employment features most prominently among discrimination-based complaints, more often based on age and trade union membership in the private sector, and on political conviction in the public sector. Workers remain fearful of victimisation, often contacting us anonymously, in order not to endanger their legal employment status.

As in the previous years, the most common ground for discrimination in the complaints was ethnicity, i.e. national origin, especially by members of the Roma and Serb national minorities, and migrants. The Roma continue to face obstacles in education, employment, housing, health care, as well as social exclusion and prejudice. Members of the Serb national minority are also more strongly exposed to discrimination based on ethnicity or national origin, and a trend can be witnessed of deteriorating relation by a part of the majority population and some political and public actor towards this community.

In 2018, numerous judicial proceedings were instituted against journalists and the media, which affects the degree of exercising media freedoms, with intolerance of different groups and opinions still very much present in the public arena. The occurrences of denying the criminal character of the ISC are frequent, with some still wrongly trying to justify the salute 'For Homeland – Ready' by its positive connotations arising from the Homeland War, although it was in violation of the Constitution even then, while justifying the crimes and human rights violations committed by the communist regime is unacceptable, too.

As regards the National Preventive Mechanism, despite certain improvements, no significant systematic changes took place. 10 out of 14 prisons remain overcrowded, and problems related to exercising health care still remain. Citizens continue to complain about wrongdoings in police conduct, with a considerable number related to violations in acting within their competences. We continue to receive complaints by migrants and associations pointing at hampered access to international protection and violence against migrants caught in illegal border crossings, with efficient investigations missing. It is unacceptable and unlawful for the MI to deny the Ombudswoman direct access to the information on actions taken against irregular migrants in its information system. When talking about seekers of international protection, irregular migrants and persons granted international protection, systematic application of integration-related measures is still missing.

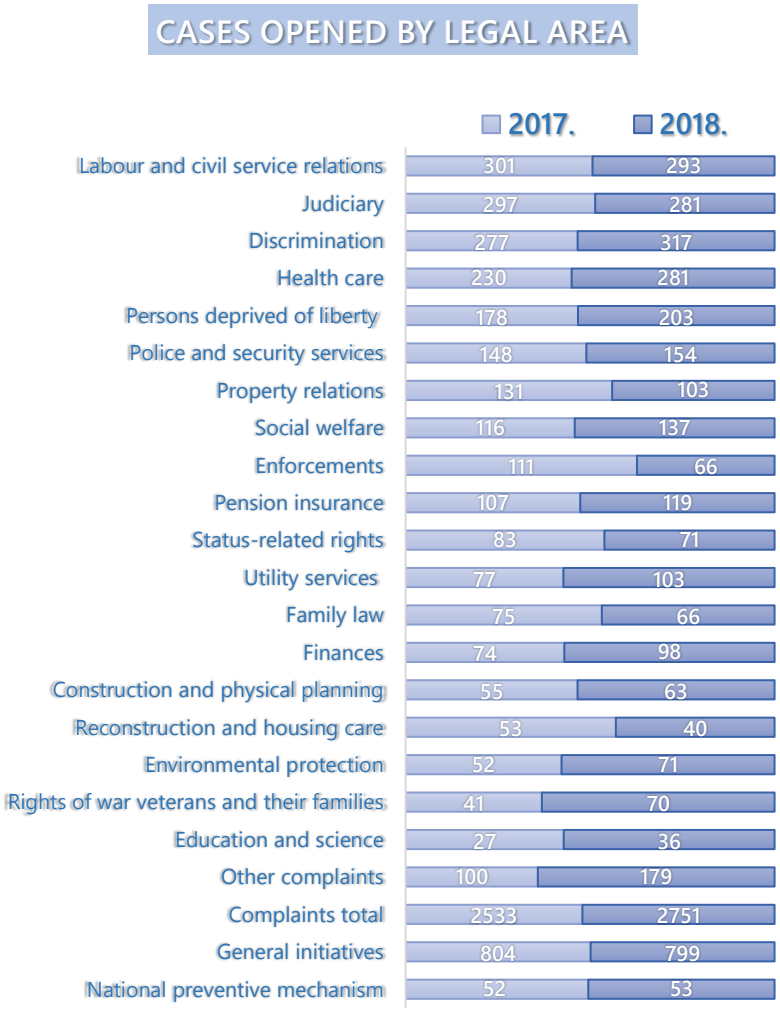
Additionally, the Act on Protecting Persons Reporting Irregularities was being prepared in 2018, to come into effect on 1 July 2019, brodening the mandate of the institution of the Ombudswoman. However, funds for its implementation have not been secured, but only for promotion, which is inadequate for the protection of persons reporting irregularities and can slow down procedures in the already existing mandates.

Ultimately, 70 years of the Universal Declaration of Human Rights was marked in 2018, the first international document putting into focus the rights of each individual regardless of their race, gender, language, religion, political or other conviction, property or other characteristics. It is these values that are reflected in the UN Sustainable Development Agenda by 2030, calling on us, when implementing policies and programmes, not to leave the most vulnerable society members behind.

2. DATA ON ACTIONS TAKEN IN 2018

2.1. STATISTICAL DATA ON THE ACTIVITIES OF THE OFFICE

In 2018, the Office of the Ombudsman acted on the total of 5082 cases opened in 2018 or in earlier years. Most of them, 3849, or 75.7%, were initiated following complaints by the citizens who had contacted the Office, or on our own initiative. 1051 (20.7%) cases were related to general initiatives that the Office was included in, such as participating in the processes of adopting regulations, training events, domestic and international cooperation and promotion in the field of human rights and combating discrimination, organising expert and public panels etc. The remaining 3.6% refers to cases within regular office work. Of the 3849 cases, 2751 (71.5%) were opened in 2018, while work

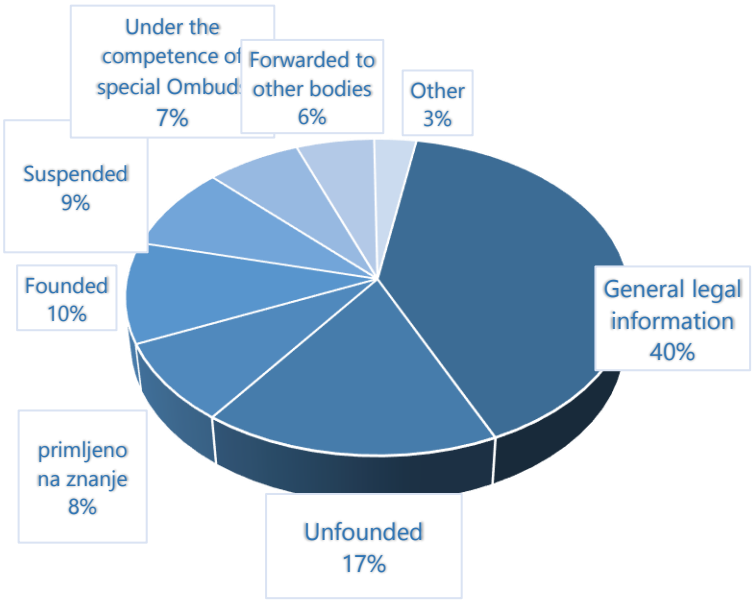


continued on 1098 (28.5%) that had been opened in previous years, due to their complexity. Furthermore, 8.6% more complaints were received in 2018 than in the year before.

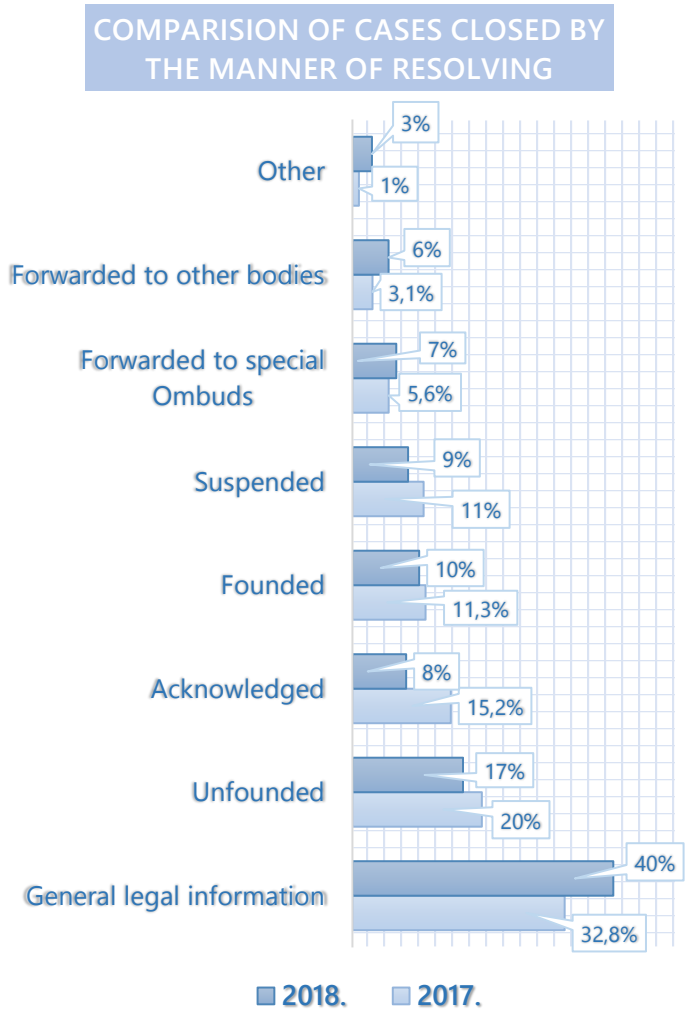
The most complaints were filed in the area of discrimination (12%), followed by labour and civil service relations (11%), and the judiciary and health care, with 10% each. The biggest increase, 70%, was noted in the field of protecting the rights of war veterans and their family members, particularly with regard to the war veteran status, and material and other rights in line with special regulations. On the other hand, the biggest drop was recorded in the area of enforcements, with 40% fewer complaints than the year before, followed by property relations, and reconstruction and housing care.

Of the total of 3849 cases that we acted upon following citizens' complaints in 2018, work was completed in 2686, with proceedings still underway in 2019 for 1163. Of the cases resolved in 2018, in 40% general legal information was provided to citizens, in 10% violations of rights were found, while no violations were identified in 17% of them. 7% of the cases were forwarded to the special Ombuds institutions, and 6% of the complaints were sent to other state authorities.

CASES RESOLVED IN 2018.



In relation to 2017, the number of cases where citizens were provided general legal information increased by 7.2%, while the number of those forwarded to the special Ombuds institutions and other state bodies was higher as well, by 1.4% and 2.9%, respectively. These data clearly show that the number of complaints, petitions and inquiries in which citizens are provided general legal information, i.e. which there are no grounds for initiating investigating procedures, is on the rise, which confirms that citizens do not possess adequate information about their rights and do not know who to contact when they consider their rights to be violated or feel discriminated against, but also, that the competent authorities should increase their availability to citizens and improve their communication using various channels. However, this information also proves that citizens are not sufficiently aware of, or dont't have adequate access to, the system of providing free legal aid, which should be at their disposal and provide them with basic legal information, which is discussed in more detail in the chapter on the judiciary.



As in the previous years, the most complaints were received in 2018 from the Zagreb County and the City of Zagreb, followed by the Primorje-Gorski Kotar, Split-Dalmatia, and Sisak-Moslavina counties. Physical persons filed 82% of the complaints, 9% were anonymous, with the remainder submitted by civil society organisations and legal persons. The complainants complained the most (29%) against actions by public administration bodies, the most of which referred to conduct of the MI in different fields, and the prison system, followed by complaints against legal persons with public authority (19%) and other legal persons (16%), local or regional government bodies (10%), courts and physical persons, with 5% each, with the same percentage of complaints which did not indicate who was complained against. The remaining complaints focused on other bodies.

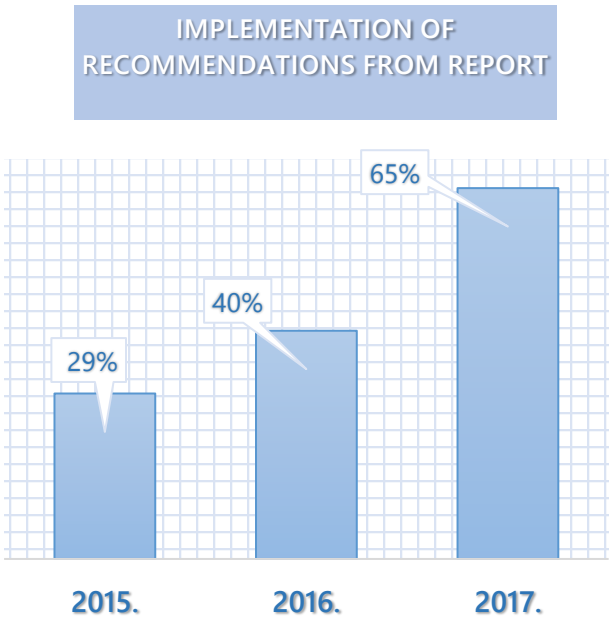
Pursuant to the Ombudsman Act, complaints may be lodged in writing or orally, and shall be recorded, while complaints sent via email shall obligatorily contain the complainant's postal address. However, the number of complaints, inquiries and petitions received by email is growing, with over 3800 citizens contacting the Office this way in 2018, or 600 more than the year before. Along with 7800 letters sent by regular mail, we received as many as 13,846 emails. In addition, official minutes were taken of 780 phone calls and visits in person relating to different inquiries in which citizens asked for assistance, but which provided no grounds for opening cases or initiating investigation proceedings.

We also participated in the process of adoption of 67 laws and other regulations, in the course of public consultation or later during the procedure, such as the Foreigners Act, Labour Market Act, legislation on taxation and other.

Cooperation with competent authorities

As in the previous years, a more detailed assessment of the measure to which the competent authorities acted in accordance with earlier recommendations is provided in each particular chapter.

However, in order to be able to provide such an assessment, we sent letters to almost all competent authorities in September, asking for information about the activities they had undertaken aimed at their implementation, and received replies from all except the Ministry of Finance and the Ministry of Science and Education. Thus, according to available data, competent authorities acted or were acting in 2018 on 65% of the recommendations from the 2017 report, failed to implement 21% of them, while we either have no information about the remaining 14% or there were differences in understanding. If these data are compared with those from the 2015 and 2016 reports, a continuous increase in implementation can be noted. This was certainly helped by the thematic session organised by the Croatian Parliament's Committee for Human Rights and the Rights of National Minorities in July 2018 focusing on the topic of implementing recommendations from the 2017 Report, and attended by many representatives of the competent authorities, where the importance of systematic monitoring of recommendations was emphasised. Satisfaction was expressed at the detailed statement by the Government about some of the recommendations, and the Committee suggested that public authorities issue such statements about all recommendations in the future, and appoint coordinators for cooperation with the Office of the Ombudsman. Most have done so, and we are going to meet them in the course of 2019.



At the same session, the Committee adopted a conclusion whereby it encouraged the Office for Human Rights and the Rights of National Minorities to continue monitoring the implementation of the Ombudswoman's recommendations through preparing and submitting reports on the activities implemented based on the recommendations to the Government of the RC. In this respect, the fact is encouraging that the Regulation on the Office for Human Rights and Rights of National Minorities from January 2019 retained monitoring recommendations by the Office of the Ombudsman and coordinating the preparation of reports on their implementation within the OHRRNM's competences, along with announcements that such report will indeed be prepared in 2019.

As regards working on individual cases during the year, cooperation with the competent bodies was mostly good. We do receive replies to our letters, albeit often outside deadlines and following several urgency notes. Besides, replies are often very scant and formal, and do not provide substantial answers to questions asked, and sometimes are even misleading. The bodies which regularly had to be sent several urgency notes included the following ministries: of state property, finance, construction and physical planning, justice, labour and pension system, environmental protection and energy, health, and science and education, as well as the State Attorney's Office, which has a

very uneven practice, however, replying to some inquiries very timely, while ignoring us completely in some cases, communicating in the media that 'the decision on dropping criminal charges was not delivered as the Office of the Ombudsman is not authorised by the Criminal Procedure Act for receiving decisions on dismissal...', even though all state authorities are obliged, pursuant to the Ombudsman Act, to ensure the availability of information, submit all data and provide all necessary assistance to the Ombudswoman.

Additionally, when preparing this report, we sent a call for cooperation and submission of data and information, experiences and observations, as well as relevant statistical data, research and other matters of importance of the assessment of situation, to all state and other bodies that have points of contact in their scope of work with the protection of human rights and combating discrimination, i.e. the topics we deal with in the report. It is encouraging that this year, for the first time, all the ministries responded and provided the information requested.

However, in the context of collaboration during the year, what particularly worries is the MI practice of denying immediate access and insight into the information about actions taken towards irregular migrants in their information system, which is the sole source of relevant data, preventing the Ombudswoman and authorised staff of the Office, i.e. the NPM, from efficiently exercising the tasks and competences stipulated by the National Preventive Mechanism Act, thus violating the Ombudsman Act and Data Protection Act. In addition, the content of the Ordinance on Stay in the Reception Centre for Foreigners gives reason for concern, potentially endangering the mandate of the Ombudswoman, which is explained in more detail in the chapter on asylum seekers and irregular migrants.

Activities of the regional offices

In 2018, the Split Regional Office received 440 complaints from citizens, of which 209 in person, 187 by phone, and 44 during field work in several cities and municipalities of the Split-Dalmatia and Šibenik-Knin counties. In addition, 107 citizens contacted the office in person or by phone, asking different questions about the Ombudswoman's competences or other information.

Most of the citizens who visited the office in person were from the Split-Dalmatia County, while the number of complaints from the Šibenik-Knin County also increased, by 21%, as a result of field work in rural areas and on the islands, as a channel for immediate collection of complaints and information about citizens' problems on the local level. Like before, the most complaints were related to the duration of judicial proceedings, exercising social and rights from the health and pension insurance, with a considerable number of complaints against police conduct and the status rights of foreign citizens.

As part of marking the International Human Rights Day, we organised a round table at the Faculty of Law in Split called 'Financial situation as an obstacle to access to justice – the problems of free legal aid', which gathered representatives of the civil society, academia, public administration,

attorney's office and courts. Additionally, as in the previous years, the regional office cooperated with CSOs, the academia and the media from the Split-Dalmatia County, and participated in all relevant public events held in the Dalmatian counties.

The Osijek regional office was visited by 255 citizens in person in 2018, 370 citizens contacted in by phone, and 18 in writing. The complainants who show up in person are most often from Osijek and its immediate environs, although they also come from other parts of the Osijek-Baranja County and the Vukovar-Srijem County, while citizens from more remote Slavonian counties mainly contact the office by phone or in writing. Like in the preceding years, the most complaints referred to work of the judiciary and enforcement procedures, discrimination, the rights of war veterans, police conduct, and protecting the rights deriving from employment relations.

In the course of 2018, the Osijek regional office collaborated with CSOs and the national minority councils. In April, we organised the conference 'Human rights have no expiration date: Life in a home for the elderly and infirm' in Osijek's Home for the Elderly and Infirm, and in December we held a round table entitled 'Deprived of freedom, but not of human rights – the importance of cooperation in protecting the rights of persons deprived of freedom' at the Faculty of Law in Osijek.

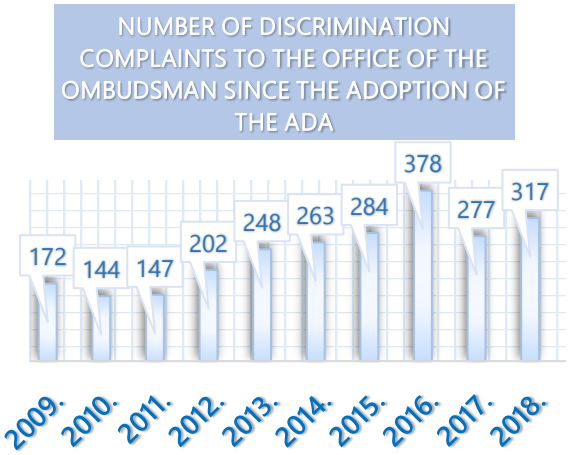
The Rijeka regional office was visited by a total of 651 citizens in 2018, of which 272 in person and 379 by phone, mainly related to discrimination in the field of labour, the inability to exercise social, pension, and status-related rights, inadequate housing, dissatisfaction with results of judicial proceedings, as well as to difficult financial situation in general and the incapacity to meet financial obligations. Though most of the complainants were from Rijeka, the office was also contacted by citizens from other parts of the Primorje-Gorski Kotar and Istria counties.

We continued successful cooperation with the Faculty of Law in 2018, by participating in lectures for students, and established cooperation with the Faculty of Philosophy in Rijeka. The regional office maintained cooperation with local CSOs, organising a lecture on discrimination for their volunteers, and members of the national minority councils and minority representatives. Staff members from the regional office addressed several events focusing on human rights: on hate speech, unemployed youth outside the education system, and other.

On the occasion of the International Human Rights Day, the Rijeka regional office organised a round table on combating discrimination in the field of labour, attended by representatives of the academia, judiciary and trade unions, and on the types of violating the rights of workers and mechanisms for their protection.

2.2. STATISTICAL DATA ON ACTIONS TAKEN AGAINST DISCRIMINATION

2.2.1. STATISTICAL DATA BY THE OFFICE ON THE OCCURENCES OF DISCRIMINATION



In 2018, the Office of the Ombudsman acted on the total of 779 discrimination-related cases, of which 529 were initiated following citizens' complaints or on the Office's own initiative, and in 250 general initiatives, such as participating in drafting regulations, organising and conducting training and other. Of the 529 proceedings initiated on the grounds of suspected discrimination, 212 had been carried over from the previous years, while 317 were received in 2018, the second-highest number on the annual basis, after 2016, constituting a 14% increase in relation to 2017.

Like in the preceding years, the area of labour and employment featured most prominently in the complaints, with 42.9% of them, of which 27.1% referred to discrimination in labour, and 15.8% to employment. They are followed by complaints in the field of access to goods, with 7.3%, and those in the areas of public information and the media, and public administration, with 6.6% each in the total number. The fields of education (4.1%) and justice (3.8%) were also more prominent, while others were less present. Additionally, 3.8% of the complaints were related to multiple discrimination areas, while in 3.5% of the cases no area was indicated or could be determined, and 7.9% of the cases pointed at discrimination in general.

AREA OF DISCRIMINATION	NO. OF COMPLAINTS	%
Labour	86	27,1
Employment	50	15,8
Public information and the media	21	6,6
Access to goods and services	23	7,3
Social welfare	7	2,2
Education	13	4,1
Administration	21	6,6
Judiciary	12	3,8
Health care	11	3,5
Pension insurance	4	1,3
Housing	7	2,2
Science	5	1,6
Sport	4	1,3
Membership in trade unions, CSOs, political parties	1	0,3
Cultural and artistic activity	1	0,3
Health insurance	2	0,6
Multiple areas	13	4,1
No area	11	3,5
Discrimination – general	25	7,9
TOTAL	317	100

Looking at the grounds for discrimination, in keeping with the trend of last several years, race, ethnicity and colour, and national origin, remain in the lead with 20.8% of the total number of the complaints. Citizens also complain of age-based discrimination (6.6%), political or other belief (5.4%), and health status (4.4%), while other grounds remain less present. As in the previous

years, the fact that in even 18% of the complaints no grounds from the ADA were indicated causes concearn, which means that citizens still need to be educated about the legal concept of discrimination, as there can be no discrimination, as it s defined by the ADA, if there is no causal relationship established between discrimination grounds and unfavourable treatment.

Like in the preceding years, most complaints were filed by physical persons who were the victims of discriminatory actions. 45.4% of the complainants were female, 54.6% were male, while 8.9% of the complaints were filed by groups of persons, and 4.6% were anonymous. We initiated anti-discrimination proceedings on our own initiative in 10.2% of the cases.

GROUNDS FOR DISCRIMINATION	NO. OF COMPLAINTS	%
Race, ethnicity or colour	18	5,7
National descent	48	15,1
Age	21	6,6
Gender	19	6
Religion	9	2,8
Social status	5	1,6
Education	8	2,5
Political or other conviction	17	5,4
Health status	14	4,4
Disability	11	3,5
Material status	10	3,2
Trade union membership	7	2,2
Marital of family status	2	0,6
Sexual orientation	4	1,3
Language	0	0
Gender identity or expression	1	0,3
Multiple discrimination	66	20,8
Other grounds	14	4,4
No grounds under ADA	43	13,6
TOTAL	317	100

As regards the bodies complained against, in 30% of the cases citizens complained of discrimination by public administration or bodies of local or regional government, in 23% by legal persons, in 16% by physical persons, in 10% by legal persons with legal authority, and in fewer cases by other bodies.

2.2.2. CONSOLIDATED DATA OF ALL OMBUDS INSTITUTIONS

Along with the Office of the Ombudswoman, statistical data on complaints about discrimination pursuant to the ADA are also collected and kept by the special Ombuds institutions. As the central body in charge of combating discrimination, we consolidate these data in order to provide a comprehensive representation of discrimination-related complaints received by all Ombuds institutions in the reporting year, broken down by the complainant's gender, grounds and areas of discrimination and the type of body complained against.

COMPLAINTS UNDER THE ADA BY THE COMPLAINANT'S SEX IN 2018				
Complainant's sex	**Office of the Ombudsman**	**Ombudsman for Persons with Disabilities**	**Ombudsman for Children**	**Ombudsman for Gender Equality**
Female	105	27	14	299
Male	126	30	13	127
Transgender person	-	-	-	-
Unknown	14	1	1	-
Group	27	6	10	4
Office initiative	31	5	-	28

TOTAL	303[1]	69	38	458

COMPLAINTS UNDER THE ADA BY DISCRIMINATION GROUNDS IN 2018				
Grounds	**Office of the Ombudsman**	**Ombudsman for Persons with Disabilities**	**Ombudsman for Children**	**Ombudsman for Gender Equality**
Marital of family status	2	-	2	4
Trade union membership	7	-	-	-
Age	21	-	3	-
Social status	5	-	-	-
Genetic heritage	-	-	-	-
Economic status	10	-	2	-
Disability	11	66	5	2
Language	-	-	-	-
Education	8	-	1	-
Political or other belief	17	-	1	7
Race, ethnicity, skin colour or national origin	66	-	5	3
Gender identity and expression	1	-	-	11
Social origin	-	-	1	-
Sex	19	-	1	381
Sexual orientation	4	-	-	40
Religion	9	-	2	2
Health condition	14	-	3	-
Multiple discrimination	66	3	7	-
No grounds under ADA	57	-	5	8
TOTAL	317	69	38	458

COMPLAINTS UNDER THE ADA BY THE BODY/PERSON COMPLAINED AGAINST IN 2018				
Type of body/person complained against	**Office of the Ombudsman**	**Ombudsman for Persons with Disabilities**	**Ombudsman for Children**	**Ombudsman for Gender Equality**
Physical person	52	2	4	22
Legal person	74	9	4	92
Legal person with public authority	32	37	13	163
State administration body	51	11	4	112
Judicial body	9	5	-	31
Civil society organisation	3	1	-	16
Local or regional government body	46	4	6	16
Other	50	-	7	6
TOTAL	317	69	38	458

COMPLAINTS UNDER THE ADA BY THE AREA OF DISCRIMINATION IN 2018				
Area	**Office of the Ombudsman**	**Ombudsman for Persons with Disabilities**	**Ombudsman for Children**	**Ombudsman for Gender Equality**
Membership in trade unions, CSOs, political parties	1	1	-	3

[1] The number of complainants (303) is lower than the total number of complaints (317) because some persons filed several complaints.

Public information and the media	21	-	2	58
Cultural and artistic creation	1	-	1	6
Education	13	8	17	11
Sports	4	-	-	1
Science	5	-	-	1
Judiciary	12	5	-	28
Public administration	21	-	-	94
Access to goods and services	23	11	3	9
Labour	86	5	-	65
Employment	50	4	-	22
Pension insurance	4	2	-	5
Social welfare	7	8	3	79
Health insurance	2	-	-	30
Housing	7	1	2	5
Health care	11	4	2	27
Multiple areas	13	-	3	-
Discrimination – general	36	20	2	14
TOTAL	**317**	**69**	**38**	**458**

2.2.3. THE PROBLEM OF UNDERREPORTING DISCRIMINATION AND THE PREVENTION

Discrimination-related cases can either be filed with the Ombudswoman or special Ombuds institutions, or protection can be sought through judicial proceedings. However, even though the ADA has been in effect for ten years, and the number of complaints to the Ombudswoman has been on the rise, as a result of pro-active work and better awareness of the citizens about the Office's competences and possibilities for protection, research shows that the presence of discrimination is still significantly higher than is reported to competent bodies. Underreporting is not unique to Croatia, as indicated by results of the FRA research[2], and emphasised by other bodies focusing on equality, including the European Network of Equality Bodies (EQUINET)[3]. According to a research carried out in late 2016, as many as one fifth of the respondents reported experiencing discrimination once or several times in the previous five years, of which two-thirds failed to report it, believing that it would not change anything, fearing that the situation would only become worse, not knowing who to contact, or considering the ensuing proceeding too complicated, lengthy and expensive.

However, apart from the possibility to file complaints, the anti-discrimination system also includes preventive action, such as informing the public about the possibilities for protection, and educating persons encountering discrimination cases in their work, who in passing their decisions can violate someone's right to equal treatment, too.

Bearing in mind the importance of preventive action, the officials and employees of the Office of the Ombudswoman conducted a series of training events in 2018: for LG(R)U heads, judges and state attorneys, city administration staff, managers of state-owned companies, trade union heads and students.

[2] Agency for Fundamental Rights: Second European Union Minorities and Discrimination Survey – Main results, available at https://fra.europa.eu/en/publication/2017/eumidis-ii-main-results

[3] http://www.equineteurope.org/IMG/pdf/summary_report.pdf

To address the problem of discrimination in the society, the Government adopted the National Plan for Combating Discrimination in the Society for the 2017-2022 period in late 2017, and the Action Plan for the 2017-2019 period, including specific measures, implementation deadlines and competent bodies, but information about the implementation of the National Plan is not available. Although an online platform was developed intended to present the results of implementation of the measures, no information is entered there, and a Working Group for Monitoring the Implementation of the National Plan, which should report to the Government annually, has not been established yet. Additionally, the Action Plan expires in 2019. As it was planned to carry out its external evaluation in the last quarter, containing an assessment of meeting the goals, efficiency of the implementation of measures, and recommendations for a new Action Plan for the period until 2022, that needs to be done as soon as possible.

Recommendations:

1. To the Office for Human Rights and the Rights of National Minorities, to continuously inform citizens about the prevention of discrimination and protection mechanisms;
2. To the Government of the RC, to set up a Working Group for monitoring the National Plan to Combat Discrimination 2017-2022;
3. To the Office for Human Rights and the Rights of National Minorities, to activate an online platform enabling a continuous monitoring of the implementation of measures and goals of the National Plan to Combat Discrimination 2017-2022;
4. To the Office for Human Rights and the Rights of National Minorities, to conduct, as soon as possible, an external evaluation of the Action Plan for the 2017-2019 period.

3. INDIVIDUAL AREAS OF HUMAN RIGHT PROTECTION AND COMBATING DISCRIMINATION

3.1. THE JUDICIARY

„I am asking the decision on paying judicial fees to be dismissed as I could not obtain a decision on my exemption from paying judicial fees from the public administration office in Bjelovar due to a lack of time. As I pointed out in my claim, I am a single mother of two, aged 7 and 10. Therefore, I am asking it to be taken into account that I must fulfil all my obligations as a parent myself. On 24 May 2018, a procedure for my obtaining the guaranteed minimum allowance was initiated at the Social Welfare Centre in Novi Zagreb, since we are a socially vulnerable family, as I noted in my claim... As I am a legally illiterate person, I have the impression that you are very accurate when issuing decisions on paying judicial fees for a case that has not even been initiated, and no single hearing has been held, amounting to a monthly salary for an effective work of two hours, while there are other cases sitting in your drawers for over a year. As a citizen of the Republic of Croatia, I can't help asking myself whether this amounts to the normal practice of favouring and clientelism, as all the media and majority of the politicians have been describing the Croatian judiciary for some time.

One day, when the judiciary is finally put on good foundations, expect to receive many requests and have a lot of work, as there are lots of legally illiterate and socially disadvantaged people who are particularly affected by disregard and clientelism, their families ruined and lives shattered so much that I sincerely hope that it will stop one day... As one of the numerous disillusioned citizens, I am fed up with corruption and disrespect of the Croatian Constitution, since corruption is a primitive way of thinking and working, with no shining future, as the truth comes out sooner or later. Justice may be slow, but is sure. Have a good rest of your life.“

According to a definition by the International Commission of Jurists, the rule of law does not merely refer to the application of legal instruments, but rather includes the protection of all members of the society from excessive authority of those in power, is based on fundamental human rights and inseparably linked to the independent and efficient judiciary. However, the judiciary has stood out for many years as one of the key problems of the Croatian society, being perceived as inefficient, slow an arbitrary in its actions, creating a feeling of inequality before the law, and deepening distrust of the legal system.

In the complaints we receive in this field, citizens point at the susceptibility of judges to corruptive influences, stress their lack of independence, and believe that there is a collusion between the executive power and judicial bodies, considering this the main reason for the judiciary's failure to

work properly. Of the total number of complaints received in 2018, in as many as 65% citizens expressed dissatisfaction with the quality of court decisions and the work of courts in general, stressed that evidence presented to the court is not accepted, and that judgements are passed in a manner that leaves an impression of disrespecting their procedural rights, and does not guarantee fair trial. Additionally, inconsistencies in court decisions are emphasised, because of which higher courts revoke them, leading to lengthy proceedings and additionally affecting legal security and trust of the judiciary. This is confirmed by the EU Justice Scoreboard 2018, according to which over 60% of Croatian citizens have a negative opinion about the independence of courts, while this figure does not exceed 30% in most EU member states. Such a negative image can certainly be attributed, to an extent, to courts' actions in high-profile cases involving political actors and persons from the public arena, in which protracted proceedings end in sanctions just within legally defined minimum, creating a sense of unwarranted length of procedures, sentences disproportionate to the gravity of offences committed, and inequality before the law.

Citizens also express a lack of trust in the work of the state attorney, both in the complaints and in public, due do its procrastination it resolving criminal charges, failure to institute proceedings following criminal charges, inappropriate communication with persons filing charges, and the impossibility to obtain information on the status of cases.

According to the 2018 Report of the Council of Europe European Commission for the Efficiency of Justice (CEPEJ), by the number of legal cases per 100,000 inhabitants, Croatia is at the very top among the member states. In addition, the EC Country Report Croatia 2019 emphasises limited progress made in improving the quality and efficiency of the judicial system, and the lack of adequate legal mechanisms to ensure judicial independence. According to data for the 2010-2016 period, which serve as a basis for monitoring judicial reform within the European Semester, Croatia ranked 21st out of the 24 member states for the time required to reach decisions in first-instance civil and commercial cases, and 16th out of 25 for administrative cases. When all instances are taken into account, in reaching decisions in civil and commercial cases, Croatia was ranked 19th out of 26, and 11th out of 25 for administrative cases, providing ground for a recommendation by the EC to reduce the length of judicial proceedings and upgrade the use of electronic communication in courts, as it was assessed that protracted judicial proceedings and a considerable number of unresolved cases still adversely affected the quality and efficiency of the judiciary, and, consequently, the business environment.

In a Council recommendation about the National Reform Program for 2018, the EC states that the decrease in the number of unresolved cases mainly resulted from fewer new cases, rather than resolving those in procedure at a quicker rate. In the EU Justice Scoreboard 2018, Croatia ranked first by the number of judges per 100,000 inhabitants. However, by the total expenditure on courts per capita, Croatia ranked 21st out of the total of 28 member states, taking the 4th position looking at the total expenditure of the general government on courts as a GDP percentage. Therefore, in comparison with other EU member states, Croatia spends few funds per capita, while earmarking

significant funds in relation to the general government expenditure, which leads to a conclusion that the work of courts is highly prioritised expenditure. The EC also stated that electronic communication in civil and bankruptcy cases is still used insufficiently, with Croatia ranking 23th out of the 25 member states, as procedural stages can only be tracked that way, while proceedings cannot be initiated or summons dispatched.

With the aim of combating corruption, reinforcing the independence and preventing political influence on the procedure of selecting, appointing and renewing the mandate of the President of the Supreme Court, GRECO asked in its Fourth Evaluation Round Report for the RC from 2014 for a full inclusion of the State Judicial Council in these processes, which was assessed in the Fourth Evaluation Round Report Compliance Report from December 2018 as only partially implemented. The 2018 Amendments to the Courts Act limited the role of the SJC in these processes, while its own selection remains subject to executive and legislative power influences.

Although EU law constitutes a part of the national legal system , the awareness is still insufficiently raised, especially in lower-instance courts, of the need to align case law with the judicature of the ECtHR and the Court of Justice, while the 2018 FRA Report indicates that Croatian courts apply the Charter of Fundamental Rights of the EU only exceptionally. This is corroborated by the figure from the EU Justice Scoreboard 2018 that only 29% of judges have attended training on EU law, putting the RC at the very bottom among the member states.

Better communication with the public would certainly help in removing the negative perception of the work of the judicial system, as recommended in the 2017 Report, and the MJ announced preparing one. However, the GRECO Compliance Report from December 2018 assessed the recommendation about the need to develop a communication policy for the judicial system, including general standards and rules of conduct for media communication, as not implemented.

Citizens' awareness of the possibilities for alternative ways of dispute resolution remains insufficiently developed, with judges seldom advising them of the possibility to resolve disputes in civil cases through mediation. Despite our recommendation to the Judicial Academy to organise regular training on mediation and mediation skills for judges, no such training took place in 2018.

Although the level of financing the free legal aid system increased in 2018, funds were only paid to the providers in November. It is necessary to reinforce this system by stepping up budget allocations for primary legal aid, as well as providing timely and sustainable funding for its providers.

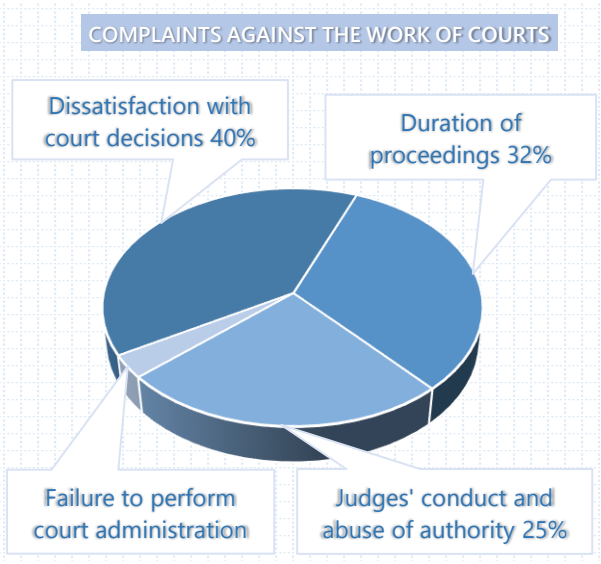
The reorganisation of the network of judicial bodies was not followed by expanding support to victims and witnesses, with support departments only established in seven county courts, i.e. seven municipal courts, based on an agreement on establishing joint services. Despite the existing need for additional professional training of all system stakeholders encountering victims in their work, no training events were organised as part of the regular Judicial Academy Professional Training

Program for judicial officials focusing solely on the rights of victims/witnesses and sensitising for their needs.

Based on the MJ Strategic Plan for the 2017-2019 period, six acts related to the judicial reform were adopted in 2018: Act on the Amendments to the Courts Act, Act on Court Seats and Jurisdictions, Act on the Amendments to the State Judicial Council Act, Act on the State Attorney, Act on Seats and Jurisdictions of State Attorney's Offices, and Act on the State Attorney Council, but their effects remain to be seen in the future.

3.1.1. COMPLAINTS REGARDING JUDICIARY

In 2018, the Office of the Ombudsman received a total of 281 complaints in the judicial field, out of which 127 were related to courts, of which 50 referred to dissatisfaction with court decisions, 41 to excessive lenght of the proceedings, 32 to actions by judges and abuse of power, and 4 complaining about tasks of court administration. Thus, citizens expressed the most dissatisfaction with the quality of court decisions, indicating that courts and judges are not independent enough, and pointing at the collusion between judicial bodies and the executive power as the reason for the judiciary's failure. Of the 41 complaints received related toexcessive lenght of judicial proceedings , we completed investigation in 35 of them, assessing 12 as founded and 23 as unfounded, which points at subjective understanding of the concept of the excessive lenght of judicial proceedings by complainants. Notwithstanding such a small sample in the context of the total number of judicial proceedings, the MJ arrived at the same conclusion, with the Directorate for Organisation of the Judiciary receiving 1631 petitions about the work of courts in 2018, which were most often related to dissatisfaction with the manner of management and decisions rendered in judicial proceedings, while the duration of proceedings ranked third as a reason for filing petitions.



As complaints continue to show a high level of citizens' distrust of the judiciary, and big dissatisfaction with the quality of court decisions, more efforts need to be focused into training civil servants and judicial officials, chiefly in the fields of European law and human rights protection, and measures implemented aimed at safeguarding the independence of courts from the executive power, with the anti-corruption strategy playing a key role, in accordance with the Council Recommendation on the National Reform Programme 2018.

Based on data from the SJC, eight disciplinary proceedings against judges were initiated in 2018, with disciplinary liability found in seven of them. As regards the SAO, we received 77 complaints in 2018, which represents a slight increase in relation to the year before, while the MJ received 232 complaints. Citizens mainly expressed their

dissatisfaction with procrastinating in dealing with criminal charges, almost to the point of the statute of limitations for instituting criminal proceedings expiring, with inappropriate communication, and the impossibility to obtain information about case status. As regards the work of lawyers and the CBA, we received 12 complaints, and the MJ received 10. However, the CBA Disciplinary Committee received as many as 622 disciplinary reports in 2018, out of which proceedings were initiated in 451 cases, 134 reports were dismissed, and the Disciplinary Court passed 92 rulings establishing disciplinary liability for committing grave violations of the Bar's duties and reputation, which shows that complainants are aware of the CBA's competences and contact them directly. As regards the work of public notaries, we received only three complaints in 2018, and the MJ received 14, representing a continuous drop in relation to the previous years.

3.1.2. FREE LEGAL AID

„I submitted an appeal to the Ministry half a year ago, and they haven't solved anything yet... In the meantime, I have been at hearings and written petitions... I'm not sure how all that will end...“

Ensuring free legal aid is a right guaranteed by the EU Charter of Fundamental Rights of the EU of crucial importance for exercising the right to access to justice, and it is the responsibility of the state to provide a legislative and financial framework ensuring the equality of all citizens before the law. In the circumstances where as many as one fifth of the Croatian population live at a risk of poverty, ensuring a functioning FLA system available to the citizens through which they can exercise and protect their rights in a timely manner is of utmost importance.

Although budgetary allocations for FLA were increased in 2018, with EUR 2.6 per capita, they are still insufficient and very low compared to the European average of EUR 9 per capita. The MJ Report on exercising the right to FLA and funds expenditure in 2017 shows that, while out of the total FLA provided, more than 70% referred to the provision of general legal information and legal counsel, the share of FLA financing was 65:35 in favour of secondary legal aid. Primary legal aid is remarkably important because it includes procedures before administrative bodies where citizens exercise their rights from the status-related, health and pension insurance, and the social welfare system. Also, in many cases lawsuits are not the only way of resolving a legal problem, and legal counselling about realistic options and possible outcomes of court proceedings could considerably prevent high legal costs. Increased allocations for primary legal aid might therefore bring to long-term savings in the FLA system and improve its efficiency.

Although the 2018 tender for financing projects by authorised providers was announced earlier than the previous year , in mid-February, a decision on awarding funding was only taken in September, and the funds were paid to the providers in early November. The present form of project funding of providers on an annual basis is extremely ineffective, as the tender is announced, pursuant to the

law, in the same year for which projects are awarded, resulting in a lack of continuity in financing providers throughout the year, which is stressed by CSOs and legal clinics as the main problem of this system. Therefore, the Free Legal Aid Act should be amended for the tender to be announced earlier and a decision taken in the year preceding the funding.

As a result of the delays in tender implementation and the award of funds, the providers were forced, for most of the year, to scale down or even completely stop providing primary legal aid, particularly those doing field work with the population outside big cities. In addition, some providers limited the number of days for admitting citizens due to a lack of funds for paying overhead costs. Owing to the untimely distribution of project funds, the organisation Dalmatian Solidarity Committee was not able to pay the costs of rent and communal fee, leading the City of Split to initiate an enforcement procedure. Moreover, although the FLAA stipulates the possibility of financing FLA projects by LRGUs, only a few of them financially supported the providers in 2018, including Pula, Poreč, Osijek, Slavonski Brod, Virovitica and Knin, with funds ranging from HRK 2000 to HRK 24,000. Taking into account the limits of LRGU budgets, they should still consider the possibility to award funding to the providers, thereby ensuring greater availability of FLA in the local communities. Additionally, they need to be given other kind of support, such as relieving them of paying the costs of rent, communal fee etc.

The Commission for FLA, whose tasks include monitoring and analysis of the award and application of legal aid, reviewing a draft annual report on exercising the right to legal aid and funds expenditure, providing opinions about projects by CSOs and legal clinics, and improving the legal aid system, failed to carry them out for the most part of 2018. Commission members' mandates expired in April, and the MJ only started the process of appointing new ones in mid-November, which has not been completed yet. Along with representatives of state authorities, members of the Commission included representatives of CSOs, faculties of law and lawyers, thus representing an important link in the chain of cooperation in the FLA system. Account should therefore be taken of timely appointment of new members after the expiry of the previous ones, so as not to interrupt the continuity of work of the Commission, and strengthen its role through holding regular sessions.

In assessing the quality of projects, the providers' activities on the ground should be encouraged as much as possible. As most of them have offices in large cities, their services are less accessible to the inhabitants of rural areas and the islands, given the travel costs they have to pay to get to the providers. For instance, field visits of the Split-based Legal Clinic of the Faculty of Law in Dalmatia, and those of the Osijek-based Centre for Peace, Non-Violence and Human Rights in Baranja, were reduced in 2018 due to a shortage of funding, so that the MJ should take the territorial coverage of the providers into account, to allow equal FLA access to citizens from all parts of the country.

Another aggravating circumstance for FLA providers is Article 34 of the FLAA, authorising the MJ to delete those providers who have not been approved a project in three consecutive years from the Register of Free Legal Aid Providers. Even though no such processes have been initiated, it should

still be considered to remove this provision, as financial support to projects is not a condition to enter the Register, and should therefore be no reason for deletion, either.

The FLA system is not functional and leads to inequality among citizens, putting them in an unequal position in exercising or protecting their rights, depending on their financial status. This is particularly true in the case of the most socially vulnerable, especially if they live in more remote or isolated areas. A high-quality FLA system, particularly primary, would ensure a timely protection of their rights, avoiding the costs, and often (unnecessary) legal proceedings.

Although state administration offices are authorised to provide free legal aid, due to their insufficient capacities this was rather difficult in 2018. In some state administration offices, such as that in the Koprivnica-Križevci County, there were no public servants employed for FLA-related tasks, while in others the same employees performed both primary and secondary FLA tasks, despite the legal restriction according to which primary legal aid may not be provided by the same civil servant who decided on the request to approve secondary legal aid in the same case. We were also contacted by citizens whose requests for secondary FLA had been dismissed by some state administration offices, for not being submitted on the official form, which should not result in denying rights, however, especially given the obligation stipulated by the APA for public servants to help clients exercise their rights.

We also received a complaint about the MJ's failure to take action following a decision on a citizen's request to be legally represented and exempted from paying legal fees and expert witness costs. The MJ failed to take any decision for over six months, in contravention of the FLAA provision stipulating that appeals shall be decided within eight days, forcing the complainant, a person with no legal expertise, to represent themself in the court proceedings, thus violating the constitutional principle of equality before justice.

All of this indicates that the FLA system fails to meet the expectations, is not functional and leads to inequality among citizens, putting them in an unequal position in exercising or protecting their rights, depending on their financial status. Citizens do not possess right information and do not know who to address in order to receive legal counsel or aid in administrative or judicial proceedings, which often exposes them to increased costs that can additionally threaten their livelihoods. This is particularly severe in the case of the most socially vulnerable, especially if they live in more remote or isolated areas, with is elaborated in more detail in the chapter on discrimination based on financial status. A high-quality free legal aid system, particularly primary, would ensure a timely protection of their rights, avoiding the costs, and often (unnecessary) legal proceedings.

3.1.3. MEDIATION

The European Parliament Resolution on the Implementation of Directive 2008/52/EC stressed the importance of mediation in civil and commercial cases and called on member states to permanently

educate the general public about the goals and benefits of mediation as a significant mechanism for the prevention of lengthy judicial proceedings. Although there is a legal framework for out-of-court settlement of disputes established in Croatia, citizens are still not adequately informed about it.

Pursuant to the Mediation Act, such processes may be conducted before all regular and specialised first- and second-instance courts of law, through mediation centres at professional associations, and CSOs. While the Civil Procedure Act authorises judges to advise parties in civil suits to consider the possibility of mediation, some judges indeed do so, particularly in courts that have a mediation service, but it is far from being universally used. The Municipal Court in Split, for instance, did not carry out a single mediation procedure in 2018, while there is no mediation service at all established at the municipal courts in Šibenik and Zadar. The Zagreb Municipal Court, the Commercial Court, and the High Commercial Court represent positive examples, with a high percentage of successfully implemented mediation processes in relation to the number of cases in which mediation started in 2018 – with as many as 71.7% such cases at the High Commercial Court.

According to data from the Croatian Mediation Association, an increase was noted in the settlements reached, with 76% of the processes concluded in this way in 2018, compared to 70% in 2017 and 50% in 2016. Some lawyers also act as CMA mediators, which is important because they counsel their clients about mediation possibilities, initiating it in some cases, as well. The CCE also carries out mediation processes at its Mediation Centre and the Court of Honour. According to data from the CCE Court of Honour, about 25% of the consumer disputes and about 20% of the commercial disputes initiated in 2018 were resolved out of court, and, according to data from the Mediation Centre, nearly 80% of the cases received in 2018 were resolved, on which 12% through a settlement.

In July 2016, the Croatian Government Decision on encouraging out-of-court resolving of civil and commercial disputes in which one of the parties is the RC, or a legal person solely established or predominantly owned by the RC, came into effect, intended, among other things, to resolve lawsuits quickly, efficiently and responsibly, prevent court proceedings from being initiated, and remove some of the workload from courts. According to CMA information, there are still few mediation processes, even though mediation can be carried out in both judicial and arbitration proceedings.

Despite a recommendation from the 2017 Report, the Judicial Academy did not ensure regular training of judges on mediation and mediation skills, failing to include it in the professional training program for 2019.

3.1.4. SUPPORT TO VICTIMS AND WITNESSES IN CRIMINAL PROCEEDINGS

„I'm using this opportunity to contact you, in the hope that you might help me... The unfortunate incident which I suffered happened back in 2010, and the Municipal Court in Pula is still acting in such a way as to humiliate me... enclosed you may find copies of the numerous adjournments... please help of I'll be addressing the European Court of Human Rights as anything is allowed in this country, it seems, and those who committed that crime against me could stay unpunished. Thank you."

The legislative framework is aligned with Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, formally guaranteeing victims a wide spectrum of rights, though the high standards of support and protection have not been attained yet, with judicial institutions remaining insufficiently prepared for a full implementation of the Directive.

Some of the measures from the National Strategy for the Development of the Victim and Witness Support System in the RC 2016-2020 have failed to take effect yet, as the Government of the RC only adopted the accompanying Action Plan in early 2019, though we had pointed at the need to adopt in the 2017 Report. Along with coordinating inter-departmental actions and harmonising the activities of all bodies providing support to victims and witnesses, as well as linking the general system with specialised support programs, its implementation was supposed to contribute to improving the normative framework, and building an information system for monitoring support to victims and witnesses. In addition, CSOs are expected be get involved more strongly in the support system, to help victims or witnesses from the very moment the crime was committed, throughout the criminal/misdemeanour proceedings, and after its completion, to cope with the psychological traumas, facilitate their social rehabilitation, and protect their rights that have been violated. It remains to be seen, however, to what extent specific tasks will be realised within the set deadlines.

Although the protection of interests of victims should be among the main tasks of criminal justice, criminal prosecution bodies and criminal courts typically do not sufficiently take their rights into consideration, focusing on the rights of defendants instead. Inquests, inquiries and investigations take too long, first hearings are often not called for months, there is nothing unusual in hearing sessions to be separated by several months, and entire processes can last for years. For example, criminal proceedings before the Municipal Court in Pula-Pola for causing severe bodily injuries have been going on since 2010, and have not ended, according to the court president, because conditions for holding hearing sessions were often too difficult to meet, either because of an illness of the defendant, defence lawyers, judges, or because the defence lawyers had previously arranged hearing sessions, the witnesses failed to appear, the judges were changed and the like.

Taking the fact into account that judges are sometimes overburdened with a large number of cases and that clients can abuse due process, the slowness of the system in all judicial branches, criminal

justice in particular, cannot and may not be acceptable. It is the obligation of the state to reinforce regulations intended to deter offenders from committing crimes with mechanisms ensuring their systematic implementation. According to data from the 2017 Report of the Supreme Court President on the status of judicial power, the average time required to resolve first-instance municipal-level criminal cases was 578 days, with a rate of resolution of 94.2%, meaning that fewer were resolved than were received. County-level first-instance cases took an average of 413 days to be resolved, second-instance cases 104 days, with a rate of resolution under 100% for either. The average time required to resolve cases of war crimes is particularly worrying, standing at 2529 days, forcing the victims to wait for justice for years, which is covered in the chapter on civil victims of war. One of the basic principles of criminal proceedings is that the court should decide on the charges within a reasonable period of time, conducting the proceedings without procrastination and taking into consideration the victim's rights and interests, preventing any abuse of the parties' and clients' rights, and using all legally prescribed measures to ensure the presence of the parties and witnesses in hearings. Furthermore, court presidents are obliged to ensure the efficiency of case resolution. This is supported by the 2019 EC Report on the RC, which ranks the lenght of legal proceedings in the RC among the longest in the EU.

Although the protection of interests of victims should be one of the main tasks of criminal justice, criminal prosecution bodies and criminal courts typically do not sufficiently take their rights into consideration, focusing on the rights of defendants instead.

The efficiency of criminal proceedings should follow the standards of a series of ECtHR judgements brought against the RC since 2005 (Camassso v. Croatia, 15733/02; Jeans v. Croatia, 45190/07; Starčević v. Croatia, 80909/12; Bilbija and Blažević v. Croatia, 62870/13 et al.). These standards include carrying out efficient investigations while ensuring legal means against delays in legal proceedings or other irregularities in the work of state prosecutors of investigating judges, and an obligation of the court to complete the proceedings in a reasonable period. The 2013 Amendments to the CPA stipulated a series of procedural instruments to ensure efficient proceedings before the state attorney. However, the complaints show that assessing whether criminal charges are founded often takes longer than required, while the right to appeal to a high state attorney for a failure of the lower-instance prosecutor to act in practice shows to be ineffective. There are no deadlines defined for the work of judges, and the only legal means to speed up proceedings remains filing an appeal under Article 347 of the CPA, whereby the parties during previous proceedings, including the injured party, may address the court president for the court failing to act within legal deadlines, or the investigating judge's failure to act leading to delays. However, such an appeal is not effective enough as it does not include procrastination by judges at the hearing stage, or in procedures following legal remedies sought. Additionally, the concept of appropriate period, which is left at the court president's discretion, is vague. The ECtHR emphasised in several cases that the legal means for appealing against the duration of proceedings, pursuant to Article 13 of the ECtHR, is only effective if it covers all stages of the procedure.

In the course of preliminary criminal investigation and criminal proceedings, victims are, almost as a rule, interrogated several times, which considerably augments the risk of new emotional and psychological trauma. Besides, account is not taken enough of their other rights, as violation of the victim's rights during criminal proceedings has almost no effect on the result of the process, with claims for the compensation of non-pecuniary damages hardly ever decided in criminal proceedings, the victim being advised to file a civil suit instead, justifying this with avoiding delays in the criminal proceedings, even though a new process brings re-traumatisation and additional costs, and the delay would be negligible.

Although the CPA and the Ordinance on Carrying out Individual Assessment of Victims stipulate the procedure for interrogating victims, including the preliminary actions to be taken, individual assessment is in practice carried out by police officers, state prosecutors and judges, who are often inadequately educated about victim support, and there in usually no collaboration with the bodies, institutions, CSOs and department for support to victims and witnesses. In addition, according to information from CSOs and the complaints received, the bodies carrying out individual assessment of victims' need for protection typically conclude that there are no risks of inflicting damage and/or re-traumatisation, and, accordingly, do not propose and/or implement special protection measures.

Individual assessment of victims should include cooperation of the civil and public sectors, bearing in mind that CSOs have experience in (in)formal assessment of victims' needs, as well as specific knowledge and skills required for sensitised conversation with persons who have suffered trauma. For this reason, it would be useful to conduct joint training, as defined by the National Strategy. Individual approach to every victim is important, as opposed to one that is utterly formalised and does not focus on the person with their own characteristics, or the type and intensity of the offence committed against them. It is impossible to treat all victims under common denominator, assessing a priori what they need, without getting actively involved in the process of decision making and risk assessment.

CSO volunteers do not have a permanently secured separate room for victims/witnesses in almost any court, and some courts do not allow volunteers to be present at hearings, to be alongside victims as persons of trust, despite this being one of their most important functions, helping to alleviate fear and discomfort.

In 2017, pursuant to the Act on Pecuniary Compensation to Crime Victims, a single claim was approved out of 37, with HRK 5000 paid out. Since its enforcement began, less than HRK 200,000 has been paid out. Such a small number of claims for pecuniary damages confirms that victims are inadequately informed, and that the implementation of this law is practice remains very limited. According to MJ data, damages to crime victims are paid from the State Budget, but there is no information about the application of Article of the CC, which stipulates that the court may order the perpetrator to pay a certain sum into a fund for compensating crime victims. It is therefore difficult to determine the extent to which courts use this possibility, and whether any funds have been paid for this purpose.

Departments for support to victims and witnesses are still only organised at seven county courts and seven municipal courts based on agreements on establishing joint services. Unfortunately, the reorganisation of the court network has not been accompanied with further development of the support network, with the MJ financing the three-year program 'Support and cooperation network for crime victims and witnesses' in those counties where no support departments are formed. It is implemented by 10 CSOs that achieved impressive results during the first year. Among the difficulties they face, it is particularly worth mentioning than almost none of the courts has a permanently secured separate room for victims/witnesses, and some courts do not allow volunteers to be present at hearings, to be alongside victims as persons of trust, despite this being one of their most important functions, helping to alleviate fear and discomfort. There are no ideas whatsoever to establish such departments in state attorney's offices, despite the fact that we pointed at their importance in our earlier reports. According to the Action Plan, establishing such departments in state attorney's offices is not planned in 2019 or 2020.

Such measures do not constitute a quality step forward in developing the support system, given the lack of CSO capacities, need to standardise the quality of services, consistency of procedures, and possibilities for quality supervision. In place of, or alongside such measures, funds should be allocated into further institutionalisation of the system and expanding the network of support departments to all county courts and state attorney's offices, while CSOs should be involved in additional and specialist forms of support, and targeted and integrated support to victims with special needs, including counselling after the completion of criminal proceedings. Such measures are also envisaged in the Action Plan, in order for victims to exercise a fuller extent of the rights guaranteed under the CPA.

As part of the measures from National Strategy for Training Specialists Coming in Contact with Victims and Witnesses, lectures were organised in 2018 for police offices in the entire RC, while lectures on the social welfare system only covered nine centres and local offices. The regular Judicial Academy Training Program for judicial officials did not include training focusing solely on the rights of victims/witnesses and sensitising for their needs, rather covering wider related topics. However, the permanent need remains tor additional professional training of all stakeholders meeting victims and witnesses in their work, especially those who participate in individual assessment of their needs and decide on their rights and interests.

The efficient application of respect of victims' and witnesses' rights remains on an inadequate level, with their needs in criminal proceedings exceeding the system's abilities. For these reasons, next amendments to the CPA should additionally reinforce the rights of injured parties in due process.

Recommendations:

5. To the Ministry of Justice, to draft amendments to the Free Legal Aid Act that would:
   - allow announcing a call for applications and deciding on the financing of primary free legal aid providers in the year preceding the financing;

- remove the provision on deleting from the register those providers who have not been granted a project for three consecutive years;
- when awarding financial funds for free legal aid, value the providers' field work in particular;

6. To the Ministry of Justice, to rule on appeals against decisions by state administrative offices regarding free legal aid within the deadlines specified in the Free Legal Aid Act;
7. To local and regional government units, to continuously support the work of free legal aid providers though financial donations or other kinds of support;
8. To the Ministry of Public Administration and state administration offices, to increase the number of staff working on free legal aid;
9. To the Judicial Academy, to regularly conduct training of judges on mediation and mediation skills, and on individual victim assessment;
10. To the Ministry of Justice, to continuously inform the general public of the importance of mediation;
11. To the Ministry of Justice, to allow hiring additional staff at the courts which provide victim and witness support as part of joint services, and to establish them at the courts where there are not any;
12. To the State Attorney's Office, to establish departments for victim support or sign agreements on establishing joint offices at county courts.

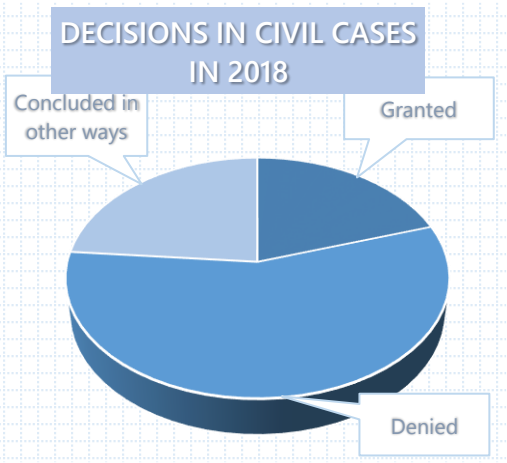
3.1.5. JUDICIAL PROTECTION FROM DISCRIMINATION

Although the ten years since the ADA came into force does not seem like a long enough period for significant changes in its implementation, this is a dynamic legal area subject to ongoing developments in the society. We are therefore witnessing a continuous case law development in discrimination-related cases, which we monitor not only through following specific court decisions, but also by using MJ statistical data on civil, misdemeanour and criminal cases related to discrimination.

Court decisions submitted to the Ombudswoman by courts represent a precious source of information, not only about the application of anti-discrimination legislation, but also about living circumstances in which discrimination occurs. As the MJ does not keep records and statistics of administrative disputes, those cases are included in this Report thanks to the judgements provided, mainly by the Administrative Court in Rijeka.

Civil cases

„...human dignity is a value from the circle of fundamental personal rights, and includes such values as honour, self-respect, reputation, and respect for other people in the society, as its integral elements. ...it is the right of each person to require other people to respect their personal dignity in external circumstances, and to refrain from actions that may infringe on it.“



Last year, by far the most discrimination-related processes, as many as 186, were related to civil cases. However, contrary to the expected, this does not mean that more citizens decided to protect their rights in civil proceedings, as even 80.6% of these cases had been carried over from the earlier period, which shows that such cases are often demanding in terms of facts and require extensive evidentiary procedure.

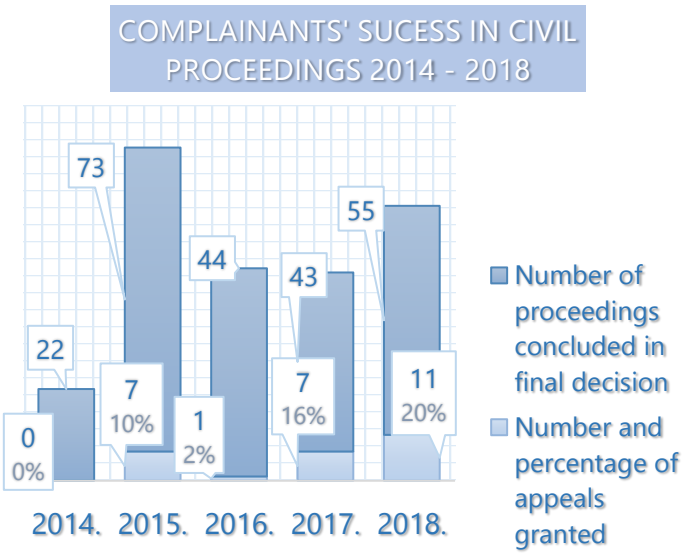
In relation to the previous year, however, more of these cases (29%) ended in final judgements, with as many as 11 judgements granting the claims made, the biggest number annually since the implementation of the ADA began. On the other hand, collective claims and requests to publish judgements in the media, as the most common element of collective claims, are still missing. While the CSOs active in the area of human rights protection used the option of collective protection against discrimination more often in the first years of ADA implementation, the MJ does not indicate a continuation of such practice in the last few years. It has been stressed in our previous reports that such negative trend points either at a drop of interest, or the existence of objective circumstances preventing those CSOs that had earlier been active in collective judicial protection of certain groups of citizens to act. The fact that some CSOs continue to use the opportunity to participate in legal proceedings on the side of the claimant, a victim of discrimination, shows their interest. However, collective protection from discrimination requires adequate expert and financial capacities, so that those CSOs need to be additionally financially strengthened.

Collective protection from discrimination requires adequate expert and financial capacities, so that those CSOs acting on the side of the complainant, victim of discrimination, need to be additionally financially strengthened.

The most common grounds for discrimination in civil cases in the complaints filed in 2018 were age and disability, while the most cases carried over from earlier focused on discrimination based on social position and union membership, which shows that such cases are legally and factually more complex and require more intensive and

longer involvement of courts. However, as all proceedings carried out pursuant to the ADA are urgent, preconditions need to be ensured, even in the most complex cases, for efficient and timely due process, not only through appropriate training of judges, but also their sufficient number.

In line with the practice of earlier years, labour disputes still prevail, with court decisions indicating fewer lawsuits against private ones, in relation to other employers. CSO data, as well as complaints to the Ombudswoman, however, clearly show that discrimination-related complaints are most common in the private sector. A conclusion can be drawn that private sector employees frequently avoid seeking judicial protection, for fear of losing their jobs, a lack of funds for litigation, lengthy proceedings in most cases, with uncertain results, as well as insufficient evidence, due to other employees' unwillingness to testify against their employer.



Although significant progress has been made since the start of ADA implementation, some of the claims continue to show a lack of understanding of the basic elements of discrimination. Claimants in some cases do not indicate the grounds for discrimination at all, or refer to one not regulated under Article 1 of the ADA, while some even dispute the closed list of discrimination grounds. However, case law has taken the position that the closed list is applied, with claims rejected in cases where no or other discrimination grounds are indicated.

Another challenge for parties in legal cases is understanding certain discrimination grounds. Although the ADA does not include definitions, their meaning is obvious from other legal sources and the case law, with social status and other belief proving as grounds that need to be additionally clarified through case law and/or training. Courts have thus interpreted social status as a set of values of each particular person in society (personal abilities, education, background, economic power etc.) and attitudes of all society members toward that person, and court interpretations should help claimants apply this ground in the future.

On the other hand, other belief is not indicated frequently as discrimination ground, and is sometimes erroneously interpreted, not only in complaints, but also legal proceedings. For instance, putting an employee in a disadvantageous position on account of their belief that the employer must act in accordance with legal regulations or allow the employee to exercise their legal rights, which the employer does not do, does not constitute discrimination based on other belief. Some of those cases may be related to protecting the rights of employees who, acting bona fide, reported suspicion of unlawful action taken by the employer. Additionally, the Act on Protecting Persons Reporting Irregularities will be in force as of 1 July 2019, regulating the protection or persons

reporting irregularities with regard to their employment status, which is elaborated in more detail in the chapter on cooperating in public actions focused on promoting human rights and combating discrimination.

Errors made by claimants resulting in rejecting judgements are present in the claims, as well, with claimants requesting a ban or elimination of discrimination even though the employment has been terminated, or determining the employer's documents as null and void, even though they have no legal effect, and cannot therefore be subject to dispute.

Although the cases of failure to distinguish between discrimination and mobbing are considerably less common than in the previous years, some claimants still vaguely or secondly define the legal grounds for compensation of non-pecuniary damages for violation of personality rights. The Constitutional Court Decision US-6791/2014, which states that the protection of employees from harassment is ensured through the application of the LA, COA and ADA goes in favour of extensive interpretation of the protection of employees' dignity against the unlawful conduct of the employer, while a lack of grounds for discrimination and, consequently, the absence of discrimination pursuant to the ADA, does not necessarily mean the absence of violation of personality rights of the employee based on other grounds or legislation.

Although it is only the probability of discrimination that must be proved, some claimants, for failing to understand the evidence threshold, do not manage to activate the principle of transferring the burden of proof to the defendant, and remain burdened in some cases with proving discrimination beyond the level of probability.

Although courts are not bound by the legal ground of a claim, its proper identification is useful for proving the violation and content of the evidentiary procedure, depending on the type of the employer's unlawful conduct. In cases where discrimination is defined as the legal ground, an indication of the form of discrimination is often missing.

For claimants in civil cases to pass the evidence threshold of prima facie discrimination, they must at least provide the framework of time and place of unfavourable treatment and, if possible, suggest relevant witnesses. However, even though it is only the probability of discrimination that must be proved, some claimants, for failing to understand the evidence threshold, do not manage to activate the principle of transferring the burden of proof to the defendant, and remain burdened in some cases with proving discrimination beyond the level of probability. Particular attention should therefore be paid in training to practical application of the principle of transferring the burden of proof to the defendant.

During evidentiary procedure, claimants point at different actions by employers violating their rights, most often including two extremes. On the one hand, they state being harassed in the workplace, by not being given tasks to work on, and being excluded from communication with the employer,

other employees and business partners, while others complain of being overloaded with tasks, given purposeless or even illegal tasks, and being over-controlled. They also witness the application of 'silent mobbing' intended to force unwanted employees to resign or be sacked without proper grounds in terms of business operations.

Some claimants do not contact the commissioner for the protection of dignity because they do not trust them, with the case law taking the position that employees are entitled to judicial protection even when they have not previously contacted the employer requesting the protection of dignity, considering it a legal possibility, not an obligation. On the other hand, in cases when employees did contact them, the commissioners typically found no violations, which rises the issue of efficiency of such kind of protection of employees' rights, and the need to reinforce the independence and professional competences of commissioners for the protection of employees' dignity.

In denying the claims made, employers frequently stress their autonomy in conducting business operations, including human resources management, which does not however preclude their obligation to act in line with the ADA. Assessing the grounds for discrimination claims often includes questioning the motives of contentious business decisions, their effect on particular groups of employees, and relation to one or more discrimination grounds on the side of the employee. In this regard, legal security of claimants disputing the lawfulness of their employers' decisions will be greatly enhanced by aligning the case law in terms of interpreting the scope of autonomy of business operations.

In their lawsuits, employees mainly seek discrimination to be determined and compensation of damages paid. The number of claims exceeding HRK 50,000 is on the rise, pointing at more severe violations of employees' rights and a desire for a compensation reflecting more realistically the damage inflicted. However, many are still not ready to risk high litigation costs, relying instead on earlier case law in setting compensation claims, and on lower amounts awarded. Unfortunately, this strategy is confirmed by lawsuits with high compensation claims, in which claimants, after losing them, had to pay very high litigation costs.

Although court decisions state the criteria for assessing the amount of compensation for violating personality rights, explanations are usually missing with regard to their application in the specific case. For this reason, it is very difficult for claimants to understand how compensation amounts have been calculated, which is why a more detailed elaboration of the assessment criteria in defining the amount of compensation would be very useful, particularly in correcting compensation amounts in second-instance proceedings.

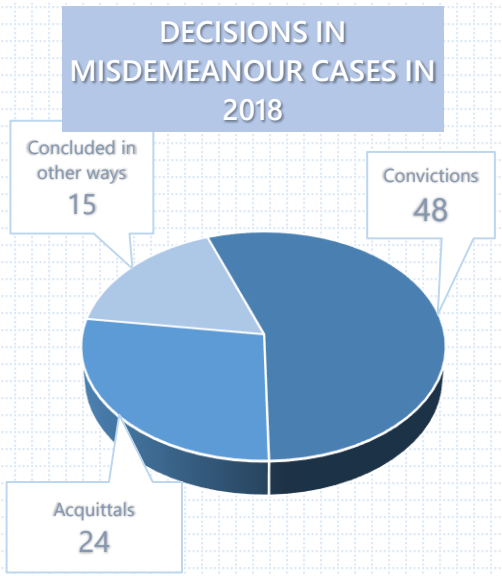
The amount of compensation should be effective and have a deterring effect with respect to the defendant in question, and any potential ones. It is questionable, for instance, whether a HRK 30,000 compensation for violating the personality rights of an employee whose mental and physical health has been so much ruined as a result of the employer's actions that she had to resign, will act preventively against a defendant who is financially secured.

As the amount of compensation awarded is defined, among other things, by the amount of the compensation claim, it is necessary to strengthen the trust of claimants of the judiciary, primarily to make them seek judicial protection, and set their compensation amounts in accordance with the damage actually inflicted, and not according to the compensation expected to be awarded. In this regard, case law needs to be harmonised, with clear elaborations of how compensation amounts have been calculated, to guide future claimants in their defining compensation claims.

Misdemeanour cases

In relation to the previous years, the number of discrimination-related misdemeanour cases decreased in 2018. Of the 156 active cases, however, as many as 81, or nearly 52%, were initiated in 2018.

Unlike civil cases, misdemeanour cases most often take up to one year, which is probably the result of simpler evidentiary procedures, differences in the types of discrimination in misdemeanour cases, and more common admissions of liability, which is very rare in civil cases. Nearly 56% of such cases ended in convictions, which is more than in the previous year.



Defendants in misdemeanour cases were processed most often on account of harassment under Article 25 (1) of the ADA, with the most common discrimination ground being national descent, in nearly 38% of the cases, followed by race or ethnicity, gender and social status, and other discrimination grounds less present. In determining misdemeanour liability based on national descent, it is irrelevant whether the injured party is indeed of the national descent for which they have been harassed, and it is the intention of the perpetrator which matters who, motivated by this ground, creates a hostile, humiliating and offensive environment, as well as the effect of such conduct. Harassment was most often based on the Serb national descent, with the injured parties frequently called 'chetniks'.

When comparing different types of judicial proceedings, it becomes clear that the discrimination grounds that happen to be the most common in civil cases, such as union membership, age or education, are not found at all in misdemeanour cases. This points at significantly different motives for harassment by defendants in misdemeanour cases compared to those in civil cases. The case law clearly shows that a considerable number of misdemeanour offences is committed in neighbourly, family or partner relationships, where the injured parties' characteristics related to discrimination grounds are used in (interpersonal) verbal attacks. Although defendants are often processed in such situations for disturbing public order and harassment pursuant to the ADA, it is questionable how much the injured party's nationality, for instance, is indeed used with the intention

to create fear, or hostile, humiliating and offensive environment. Courts, therefore, in assessing liability in misdemeanour cases, often determine whether the results of a verbal attack meeting the criteria of such misdemeanour offence were achieved, and whether the injured party felt threatened or humiliated. On the other hand, closeness of the defendant and injured party, especially if they are in partner relationship, sometimes makes activating the judicial system inefficient, as the injured party denies the defendant's liability in the evidentiary procedure, which results in an acquittal due to a lack of evidence.

Differences in case law are found in processing defendants for harassing police officers by indicating the abbreviation a.c.a.b. or 1.3.1.2. meaning 'all cops are bastards'. Police officers initiate misdemeanour proceedings irrespective of the circumstances of a case, relying on the MI instruction 'Symbols and Insignia of Interest for Acting against Hate Crimes'. In accordance with this, some citizens who wore shirts with an a.c.a.b. sign have been processed, as well as those who used it to express intolerance on social networks. However, courts increasingly tend to question the true intention of the defendant, for instance why they wore such a shirt, taking into account the place and time they were found wearing it. In a decision, a court even stated that this English abbreviation does not mean anything to the average citizen, and that it is only exceptionally used to harass police officers, for example on sports grounds. Thus, more recent case law with regard to the harassment of police officers based on their social status, rests on more intensive assessment of the true intention of the defendant, bringing it in relation with the circumstances of a particular case.

In earlier reports, we stressed that monetary fines were often ordered below the legally stipulated minimum, which brought the preventive purpose of such sanctions in question. In more recent court decisions, fines are ordered more frequently within the limits stipulated under Article 25 of the ADA. Although they mostly remain on the lowest legal level, such practice should be welcomed, as it represents a move towards bolstering the preventive effect of misdemeanour judgements. Moreover, along with adequately sanctioning perpetrators, it is necessary to permanently educate claimants about proper legal qualification, whether it be misdemeanour or criminal offences, thereby eliminating or reducing to a minimum acquittals based on the lack of elements of misdemeanour, as well as misdemeanour sanctioning of actions indicating criminal offences.

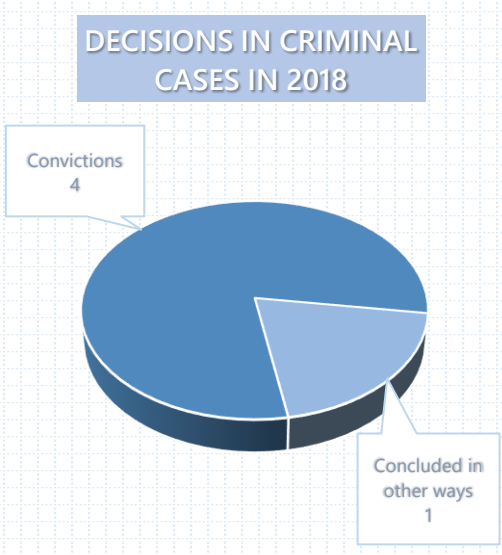
Finally, what worries is the level of aggression of some younger defendants, who, in cases of disturbance of public order and harassment, enter not only into verbal, but also physical conflict, regardless of the likely damaging consequences of such actions. The cases are particularly sensitive of younger defendants processed pursuant to the Gender Equality Act, who have been verbally or physically aggressive towards (former) partners, some of whom underage. Such defendants are legally responsible for their actions, but their behaviour may be conditioned by circumstances they were exposed to in childhood. On the other hand, the injured parties should receive full support of the judiciary, both through adequate sanctioning of the offence, and preventing it from being repeated. Courts thus have an unenviable task of rendering sanctions in line with the level of threat to the social good, that will act as deterrents and ensure the trust of injured parties in the functioning of judicial system.

Criminal cases

Although the number of discrimination-related legal proceedings has been on the rise for years, they remain the least numerous. Of the 19 conducted in 2018, five were resolved in final decisions by the end of the year, of which four were convictions. The defendants were mainly given suspended sentences, and in one case were ordered to do community service.

The most proceedings were conducted for crimes related to the discrimination grounds of sexual orientation and language, followed by national descent, race and ethnicity, sex, religion, social status and other characteristics, with language topping the list of the most common discrimination ground in the last four years. Unlike in the previous years, when MJ data showed the crimes of public incitement to violence and hate to be the most common ground for legal processing, sexual harassment was the most common crime in 2018.

With regard to discrimination-related crimes and their adequate processing and sanctioning, hate crimes are particularly important, which is elaborated in the next chapter. The rare available criminal verdicts point at the same type of sanctions handed to defendants for racially motivated crimes and other discrimination-related crimes. In a case of conviction for a crime against body and limb – physical injury, committed out of hatred due to race and skin colour, the accused had attacked the injured party verbally and physically in public, inflicting physical injuries, even though they had not known each other before and the injured party had not initiated contact with the accused. He was sentenced to 10 months in prison, suspended for three years. However, given the circumstances of the case and the need to sanction hate crime in an appropriate way, as repeatedly warned by the ECtHR, whether special and general prevention is achieved with this sanction is questionable.



In addition, some defendants are processed for misdemeanour offences in practice despite meeting the elements of criminal offences in their actions, such as one who, disagreeing with their campaign, commented on a social network that members of an initiative should be shot, and that this would probably happen soon. He was tried for harassment in a misdemeanour case and ordered to pay a HRK 5000 fine, which is the bottom limit pursuant to Article 25 of the ADA, even though he should have been criminally processed. Such sanctions are not adequately condemned by the society, and lack the element of preventing future crimes.

Administrative disputes

„The first- and second-instance bodies are considered authorities the actions of which are subject to the Anti-Discrimination Act (Article 8 hereof). These public authorities, as well as other authorities other than courts, have the competences to decide in the administrative procedure, as a procedure other than judicial proceeding, on protecting a right infringed by discrimination (Article 16 (1) (3) and Article 20 (1) hereof).“

Administrative Court in Rijeka, judgement no. Usl-516/17-20 of 12 September 2018

Administrative disputes in which claimants point out discrimination arguments are becoming more diverse and complex. Our earlier reports stressed that discrimination claims often tended to be superficial, failing to identify grounds for discrimination and prove the probability of discrimination. Although such claims remain, discrimination has increasingly become more important, sometimes even the primary reason for invalidating administrative acts, as indicated by some judgements rendered in 2018.

Some of the current topics in the society were analysed through administrative disputes, such as mandatory vaccination and whether children who have not been vaccinated, and their parents, are discriminated against by being rejected admission to kindergarten, on account of their health status or possible other belief of their parents. The court has taken the position that rejecting the admission of such children does not constitute discrimination, as all children have the right to pre-school education under the same conditions, which include appropriate vaccination, unless in case of health contraindications.

Furthermore, the administrative court acted in a case where the claimant was not employed following the implementation of a call for job applications, which the claimant interpreted as discrimination on account of national descent, and in a case where the claimant was deployed to a position lower than she considered she was entitled to be deployed to, interpreting it as discrimination on account of gender, social status and political conviction. Cases like these, in which the complexity of the claimant's argumentation about discrimination corresponds to that in labour disputes before municipal courts, show that discrimination as a legal area becomes more present in administrative disputes, thus warranting systematic monitoring.

The administrative court clearly stressed in a judgement that first- and second-instance administrative bodies, specifically the State Geodetic Administration and Civil Service Committee, are included in the scope of bodies whose actions are stipulated by the ADA, pointing its application in administrative procedures, when deciding on rights, obligations or legal interests of parties. The

very fact that the claimant's discrimination claims, based on which they challenged the legality of an administrative act, were not considered in administrative procedures, was the reason for its invalidation in the administrative dispute and returning to repeated procedure.

The position of the administrative court is important according to which, when determining the probability of discrimination in administrative procedure, they can use data from the results of evidentiary procedures undertaken by the Ombuds institutions, which the party had contacted to protect their rights, and which had assessed the complaint of discrimination as grounded. Such an instruction by the court reinforces the efficiency of actions by administrative bodies and encourages their cooperation with the Ombuds institutions, which we certainly welcome.

Additionally, in a case of challenging the legality of a general act due to its discriminatory effects, based on which the disputed administrative act has been adopted, although the claim was rejected, the claimant was instructed about the option to initiate proceedings before the High Administrative Court to assess the legality of the general act. Such information is included in the administrative court decisions used to educate claimants and administrative bodies about the legal instruments for combating discrimination. However, to prevent it during the administrative procedure, it is necessary to conduct permanent training of employees focusing on identifying discrimination and reacting in an adequate was in administrative procedure.

Recommendations:

13. To the Judicial Academy, to organise training on European and national anti-discrimination judicial practice for judicial officials as part of the lifelong professional training program;
14. To the Croatian Bar Chamber, to organise training of lawyers on the application of Croatian and European and anti-discrimination law;
15. To the National School for Public Administration, to organise regular training on the legislative and institutional framework for combating discrimination for civil servants and LRGU employees, and state officials;
16. To the Ministry of Justice, to keep records of discrimination-related administrative disputes and the grounds for discrimination based on which the procedures are conducted;
17. To the Office for Cooperation with NGOs and the Office for Human Rights and the Rights of National Minorities of the Government of the RC, to continue encouraging the work of CSOs with the expertise and capacity for initiating collective anti-discrimination claims;
18. To the Ministry of Labour and Pension System, to improve the normative framework reinforcing the autonomy and independence of commissioners for the protection of dignity, by sanctioning attempts to influence their work and/or put them in a disadvantageous position on account of their work on protecting workers' dignity.

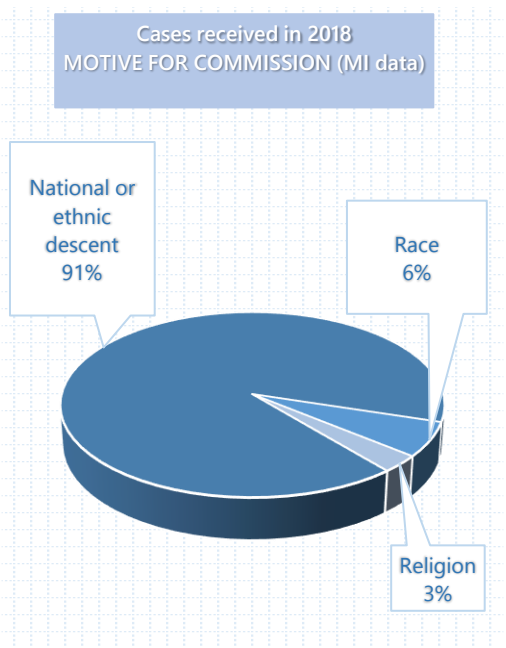
3.1.6. HATE CRIME

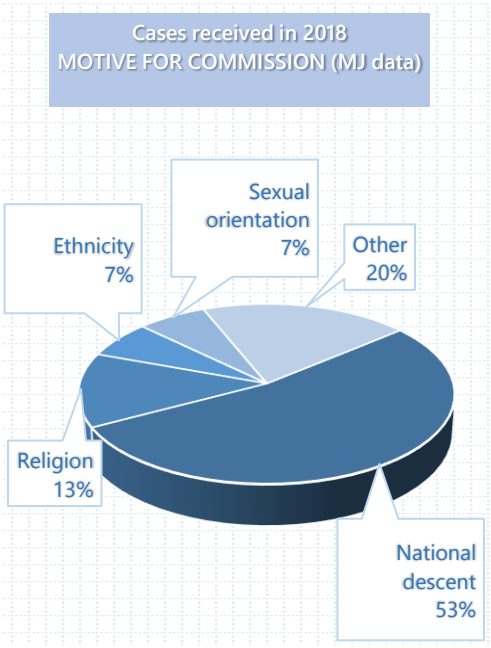
We have been pointing for several years at the problem that hate crimes threatening basic human rights and freedoms are often unreported, are not recognised enough, and that their prosecuting is often inadequate. Since hate as the motive for committing criminal offences is not sufficiently recognised, failure to sanction and publicly denounce such crimes contributes to fears by members of the minority groups who are its most common targets, but also to the general atmosphere of intolerance. This leads to not reporting hate crimes in the future, due to a lack of confidence that the institutions will provide adequate protection, but also the fear of re-victimisation, and does not act as a deterrent to the occurrence of new violence. Although the legislation is clear enough and enables protection, as expressly stated by the ECtHR in its decision Škorjanec v. RC (2017), legal standards are missing to clarify whether the exclusive motive for committing a crime is hatred, or prejudice can suffice.

Statistical data for 2018 also indicate a small number or reported hate crimes, as well as inconsistencies in the collection of information by the MI, SAO and MJ, which we mentioned in the 2017 Report. In the course of 2018, the MI reported 33 criminal offences identified as hate crime (which includes public incitement to violence and hatred under Article 325 of the CC), compared to 2017, when 28 such cases were reported. Apart from the crime under Article 325 of the CC, which was reported 5 times, the criminal offences of threat (14) and malicious mischief (9) were most common, while the criminal offences of serious bodily injury and attempted serious bodily injury were reported twice each, and the criminal offence of violent conduct once. As in the previous years, the most crimes were motivated by the injured parties' national or ethnic origin (30), with 10 crimes committed against Serbs, 9 against Bosniaks, 8 against Jews (which was specifically identified as anti-Semitism by MI), two against the Roma, and one against a Croat, with the so-called racial affiliation the motive in two crimes, and religion in one. According to preliminary SAO data, 31 criminal offences were reported as committed out of hate, following which 11 formal charges were brought, one report was dismissed, with inquests of other reports are still pending.

According to MJ data, courts conducted proceedings in a total of 35 cases related to hate crime, of which 20 had been carried over from the previous period, and 15 were received in 2018, the most of which criminal offences had been motivated by national origin (8) and religion (2), with one motivated by ethnicity, one by sexual orientation, and three by other reasons.

Hate based on the victim's national origin thus remains by far the most common motive for committing these crimes in 2018, with threat and malicious mischief the most common criminal offences committed out of hate. However, MJ data in some cases state 'other' as the motive, which shows that courts still register certain criminal offences as hate crimes, such as threats to officials with





with regard to their work, which is not a legally protected characteristic of the victim and points at insufficient understanding of the very concept of hate crime.

In 2018, courts passed judgments in 9 cases, of which 8 were convictions and 1 an acquittal. They were mainly related to the criminal offence of threat, and the perpetrators were only handed suspended prison sentences or ordered to do community service, with not a single custodial sentence given. Such sanctions cannot therefore be expected to have a deterring effect.

With regard to the problem of failure to recognise and adequately process hate crime, we have been pointing in recent years at the need for systematic training of the police and state attorney staff, as well as judges, on European and international standards in combating discrimination and processing hate crime. Such recommendation was also provided by ECRI it its Fifth Report on Croatia 2018, particularly since most hate speech and hate crime incidents are treated as misdemeanour, instead of criminal offences, with their evaluation also suggested, to assess their purposefulness. With regard to the obligation of the states to carry out effective investigations of the hidden motives of hate crimes, FRA issued a handbook in 2018 outlining due procedure in such cases, taking into account ECtHR practice, which sets standards for effective investigation when the severity of violence committed against private persons requires protection. The states are thus obliged to investigate discriminatory motives not only in cases of racism, but also look for homophobic or other motives, for instance, and carry out investigation regarding all participants of the event.

It is therefore positive that, in accordance with our earlier recommendations, the OHRRNM, in cooperation with the Judicial Academy and within the implementation of the National Plan for Combating Discrimination, started organising expert seminars for judges, state attorneys, police officers and CSOs in 2018 on the provisions of the CC, including hate speech and hate crime, with a special focus on ECtHR decisions, which will continue in 2019. Additionally, as part of the activities of CEPOL, the EU agency providing training to encourage collaboration in the application of European and international legislation, the Police Academy organised a training event in 2018 on recognising

and investigating hate crime for 34 police officials and, in cooperation with CSO Zagreb Pride, a training event for 30 Zagreb PD officers. Although they certainly represent a step forward in recognising and processing hate crime, such training events are insufficient in terms of the small number of police officers trained, who are the first ones who come into immediate contact with the victim and are responsible for the adequate qualification of the offence, as well as judges, who still do not recognise the characteristics of hate crime pursuant to the CC. The OHRRNM started drafting a new Protocol on the Procedure in Cases of Hate Crime in 2018, which was another recommendation from the 2017 Report, and it is expected to be completed in the first quarter of 2019. The Protocol should enable police officers to determine all circumstances and discriminatory motives more easily, who, in case of doubt, should contact the state attorney. In addition, more consistent collection of data from the MI, SAO and MJ should be ensured.

If the state attorney's office failed to interrogate the accused before dismissing the criminal charge, the injured party cannot institute criminal proceedings. Though interrogation may be proposed to the investigating judge, they normally reject it, and the problem is even bigger if the victim is socially or financially disadvantaged. In such cases, it is hardly likely that prosecution will be brought forward, since the system does not provide adequate legal protection.

The Ombudswoman took action in 2018 following several events indicating problems in processing hate crime and inadequate sanctioning of the perpetrators. In one instance, traces of unknown matter resembling pork fat were found on obituaries of persons of Muslim faith put up on a lamp post. Although this suggested the commission of a hate crime, police officers conducting criminal investigation failed to ascertain the circumstances, identity of the perpetrators, or the motive. Also, we have for several years been monitoring actions by the competent bodies with regard to the 2015 racist assault, when two attackers assaulted a citizen of Cameroon with a knife because of his skin colour. The police first charged the perpetrators with misdemeanour, but later changed it into criminal charges for inflicting severe bodily injuries. The charges were confirmed in October 2016, but it was not until September 2018 that the perpetrator was given a final suspended prison sentence. Another similar event, this time against an underage asylum seeker from Iraq, happened in 2018, when he, returning from school, was attacked by an unknown person who insulted and threatened him and, after he came home, threatening messages started to arrive on a social network. The court identified it as a crime of threat committed out of hatred towards a person of another national, racial or ethnic affiliation, and convicted the perpetrator. However as he was a minor, he was sentenced to correctional measures pursuant to the Juvenile Courts Act, while the municipal attorney's office dismissed bringing criminal charges for inflicting bodily injuries.

To process such offences successfully, it is crucial to collect evidence indicating the motive of hate at the earliest stage, including all data and information required to clarify and prove misdemeanour or criminal proceedings. In practice, however, the state attorneys, following inquests carried out, often do not consider that there are enough elements for instituting criminal proceedings, or they just abandon prosecution, after which the victim has the right to take it over. Although the CPA

stipulates that the victim who has taken over criminal prosecution has the same rights as the state attorney, they, not being a public authority, cannot carry out evidentiary processes or investigation and, consequently, cannot interrogate the accused party. Thus, if the state attorney's office failed to previously interrogate the accused, the injured party cannot bring charges, i.e. institute criminal proceedings. Though interrogation may be proposed to the investigating judge, they normally reject it, and the problem is even bigger if the victim is socially or financially disadvantaged, such as an asylum seeker in need of legal aid, with no knowledge of either the language or the legal system, or persons with financial difficulties, who cannot afford a lawyer. That makes their bringing criminal charges unlikely, while the system fails to provide adequate legal protection as, even though they have the right to FLA, it is difficult to obtain it.

Recommendations:

19. To the Office for Human Rights and the Rights of National Minorities, to continue, in cooperation with the Police Academy, organising training for police officers, state attorneys and judges on recognising, qualifying and prosecuting hate crimes.

3.2. THE RIGHTS OF NATIONAL MINORITIES

Although the RC has a well-developed normative corpus of the rights of national minorities, even for European standards, their full implementation is lacking. Since the EU accession, there have been requests to abolish or limit some minority rights, often accompanied with assertions that the minorities are privileged, and that the application of minority-related legislation discriminates the majority population. This continues to encourage anti-minority sentiments in the society, and sustain stereotypes of members of certain national minorities, the Roma and Serbs in particular.

Since the EU accession, there have been requests to abolish or limit some minority rights, often accompanied with assertions that the minorities are privileged, and that the application of minority-related legislation discriminates the majority population.

Although the RC chose the protection of minorities and minority rights as one of the priorities during its fist presidency of the Council of the EU, the past year was marked by a referendum imitative focused on reducing the number of members of the Croatian Parliament, including representatives of the national minorities, and limiting their term of office. At the same time, members of the national minorities remain under-represented among those employed in public administration and the judiciary, problems persist in electing and functioning of the minority councils and representatives, including their access to the media, while in the areas where the minority language and script are in public use, including education, some of the rights guaranteed to members of the Serb minority and are not realised.

Operational Programs for National Minorities 2017-2020 can, and indeed should, contribute to improving the implementation of minority rights, but reaching their goals depends on the presence of political will to carry out the agreed activities in practice.

Representation of members of the national minorities in the Croatian Parliament – an attempt to initiate a referendum to reduce their number and limit their term

After it had been announced a year before, a referendum initiative was held in 2018 focused on amending the Electoral Act to reduce the number of members of the Croatian Parliament, including representatives of the national minorities, and limiting their participation in voting on the state budget and confidence to the Government.

In our earlier reports and communications, we have continuously warned, from the perspective of basic human rights protection, of the lack of a clear and precise legal framework with regard to the content of questions to be put up for referendums, as there are no regulations expressly stating issues that may (not) be decided on a referendum. In its 2013 statement, the Constitutional Court established that there are issues which may not be put to a referendum vote, and that it is the Constitutional Court that should decide, following a request by the Croatian Parliament, on the (im)permissibility of the referendum question in each specific case. Additionally, the Constitutional Court warned back in 2010 that the RC lacks a stable normative framework for the referendum procedure meeting the standards of a democratic society, since the consequences of legal regulations and not predictable and certain.

Constitutional law experts maintain that issues pertaining to the budget and taxes, political and electoral system, as well as human rights, including the rights of national minorities, should be precluded from referendum votes, and that the present level of human rights protection, as guaranteed by the Constitution and international documents, must not be brought in question.

We have been continuously warning of the lack of legal security provided by the present normative framework, which has in recent years resulted in several attempts to mobilise citizens to support ideas aimed at diminishing minority rights. The 2017 Report included a recommendation to the Government of the RC and MPA to initiate amendments to referendum regulations in order to preclude the issues related to human rights, including the rights of national minorities, from this type of vote, which has not yet been done, however. As a working group has been set up in the meantime for drafting the new Referendum Bill, and the Plan of Normative Activities envisages its adoption in 2019, we hereby emphasise again that, in order to eliminate the possibility of providing an opportunity to the majority to limit the rights of members of any minority, it is exceedingly important to limit the issues that may be decided on a referendum.

Representation of members of national minorities in public administration, LRGU administrative bodies and the judiciary

Although members of the national minorities are guaranteed representation among the employees in public administration and the judiciary by the Constitutional Act on the Rights of National Minorities, taking into account their participation in the total population, and

representation in LRGU administrative bodies, their share among the employees is 3.24%, which remains considerably lower than in the total population, which is 7.67%.

It is (proportional) representation exactly, in the opinion or national minority representatives, as the right that is the most difficult to exercise.

According to MPA data, the share of national minority representatives among the employees in public administration bodies and expert services, and offices of the Government, is constantly decreasing, with the Roma national minority the most under-represented, with only 9 members employed in these bodies. The share of minority representatives in the judiciary is 3.90%, dropping from 3.92% the year before, as well as 3.20% among the judges, and 4.39% among the state attorneys and their deputies.

OHRRNM AND MINISTRY OF PUBLIC ADMINISTRATION DATA ON EMPLOYEES IN PUBLIC ADMINISTRATION AND EXPERT SERVICES AND OFFICES OF THE GOVERNMENT OF THE RC			
YEAR	TOTAL EMPLOYED	EMPLOYED MEMBERS OF NATIONAL MINORITIES	%
2013.	52.691	1.853	3,51
2014.	50.478	1.762	3,49
2015.	50.375	1.713	3,40
2016.	49.697	1.689	3,40
2017.	49.602	1.658	3,34
2018.	49.612	1.605	3,24 ??

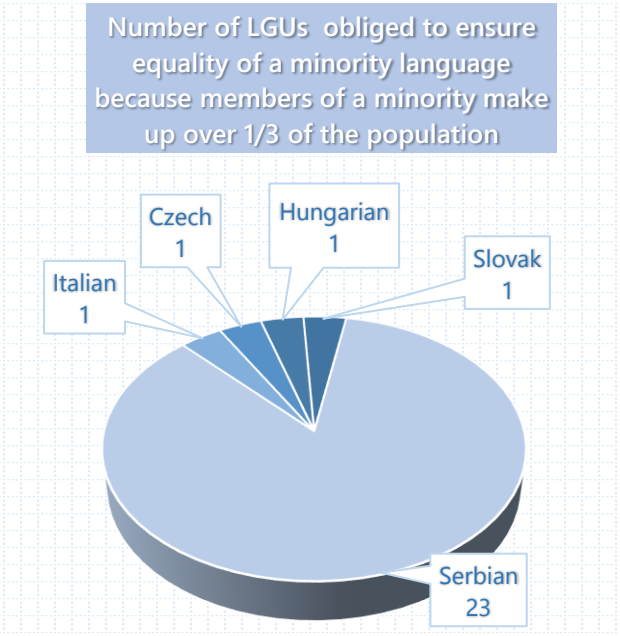
Preferential employment under the same conditions is only realised if the national minority member applying for a job invokes this right and is equal to the best-ranked candidate who is not a national minority member. However, if adequate representation has already been achieved in that specific body, preferential employment will not be applied. Even though it is only rarely realised in practice, and despite the fact that national minority members can receive preferential employment in a more limited range of public authorities than Croatian war veterans and members of their families, persons with disabilities or civilians disabled in the war, a part of the general public thinks that they are employed out of turn, on account of their ethnicity, which is not true.

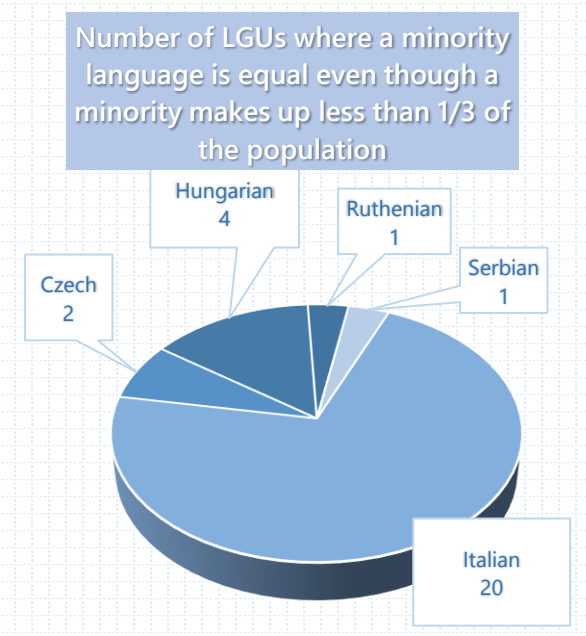
MINISTRY OF JUSTICE DATA ON EMPLOYEES IN THE JUDICIARY		TOTAL EMPLOYED	EMPLOYED MEMBERS OF NATIONAL MINORITIES	%
courts	officials	1752	56	3,2
	civil servants, employees and trainees	6568	264	4,02
state attorney's offices	officials	638	28	4,39
	civil servants, employees and trainees	1142	46	4,03
TOTAL			394	3,90

Equal official use of the languages and scripts by members of the national minorities

Almost all of the 27 local government units in which, according to results of the 2011 Census, particular national minorities make up at least a third of the population, have regulated the right to exercise some of the rights from the Act on the Use of the Languages and Scripts of National Minorities in their statutes. However, the Statute of the Municipality of Gračac, for example, stipulates in principle and very generally the equal use of a minority language and script, with no specific mention of the Serb national minority and the Cyrillic script.

Some LRGUs where the introduction of equal official use of the language and script of a national minority is not mandatory, as they do not make up a third of the total population, have still defined equal introduction of a minority language and script for the whole LRGU or a part of it. They include the Istria County, the only RGU that has introduced the equal use of a minority (Italian) language. However, the fact is indicative that, of the 26 LGUs that have introduced the official use of a minority language, though not obliged to do so, as much as 19 have introduced Italian, 4 Hungarian, 2 Czech, and one Serbian and Ruthenian, respectively. The only LGU that has introduced Serbian in equal and official use is the Municipality of Kneževi Vinogradi, which is also the only LRGU that has introduced two minority languages, the other being Hungarian.





No progress has been made in the issue of introducing bilingualism in Vukovar, though. The Constitutional Court has not yet ruled on the request by the Croatian Parliament Committee for Human Rights and the Rights of National Minorities to assess the conformity with the Constitution and law of the amendments to the Statute of the City of Vukovar, which were adopted without a previously requested opinion and approval from the political representatives of the Serb national minority, and recognise only individual, but not collective rights to the use of the Serbian language and Cyrillic script. Besides, though the amendments to the Statute envisage that extending the scope of the rights will depend on the level of understanding, solidarity, tolerance and dialogue in Vukovar,

due to be considered every year in October, the Vukovar City Council did not discuss it last two years.

We have acted following a complaint by the Joint Council of Municipalities Vukovar, which had addressed the Ministry of the Maritime Affairs, Transport and Infrastructure back in 2010, as well as the Croatian Roads and county road authorities in the Vukovar-Srijem and Osijek-Baranja counties in 2012, requesting that signs with names in both the Croatian language and Latin script, and the Serbian language and Cyrillic script, be put up on the roads into and out of communities in those municipalities that had in their statutes stipulated placing such bilingual road signs, since members of the Serb minority made up a majority of the population. As it has not yet been done, we will continue pursuing this action until the JCM request has been granted and bilingual road signs put up, as it has been done throughout the RC, in communities where members of the Czech, Hungarian and Italian national minorities live in significant numbers.

As bilingual road signs with place names of the communities with a significant share of the Serb minority have only been put up in the Municipality of Donji Lapac, and knowing that the Cyrillic script has a negative connotation in the Croatian society, it is necessary to send a clear message from the highest levels of power about the purpose of minority rights and the value of minority languages as an integral part of the cultural heritage of the RC, and create conditions to realise this right in all LGUs that meet the stipulated conditions, bearing in mind that enabling members of the Serb national minority to exercise this right would represent a symbolic recognition of their integration in the Croatian society.

It is necessary to send a clear message from the highest levels of power about the purpose of minority rights and the value of minority languages as an integral part of the cultural heritage of Croatia, and create conditions to realise this right in all LGUs that meet the stipulated conditions.

Despite our recommendations from the 2016 and 2017 Reports to allow members of the national minorities to put children's, brides' or grooms' surnames into proper gender at childbirth or marriage, thus taking into account numerous minorities with the tradition of using two different surname forms depending on the gender, and avoiding the need for subsequent requests for personal name changes, the MDFYSP and MPA have not implemented this recommendation, considering the present institute of personal name changes as sufficient.

National minority councils and representatives

Even though their role is only advisory, national minority councils and representatives can, as part of the local and regional self-government, have significant influence and contribute to better functioning of multi-ethnic communities, to the benefit of both the minority and majority, increase the governance capacities of local communities and participate in creating development. However,

the potential of this cooperation is sometimes unrecognised, by both some minority councils and representatives, and some LRGUs.

There are big differences in the amounts of funds provided to the councils and representatives, as they are allocated from local government budgets that have different financial capacities, so those with better financial conditions fulfil their purpose to a considerably greater extent. The City of Zagreb spent HRK 10,730,154.36 on its minority councils and representatives in 2017, whereas all other counties, and all other cities and municipalities in the RC allocated a total of HRK 13,698,189.07 for the work of their county, city or municipal councils and representatives.

As some councils and representatives, particularly on the municipal level, still insufficiently understand the minority legislation, their own administrative obligations, and the methodology of reporting on the use of budgetary funds, the OHRRNM, the National Minority Council and the MPA should continue educating them about their rights and obligations.

The potential for cooperation between the minority councils and LRGU representatives is sometimes unrecognised, which is why they need to be continually educated in order to improve their work and contribute to better functioning of local multi-ethnic communities.

After we had recommended in our four previous Reports to the MPA and MF to give representatives of national minorities the status of not-for-profit legal entities, which would prevent enforcing payment from their personal bank accounts, we asked the MF to draft a solution for protecting their funds. However, we have received no reply whether anything has been done to implement the recommendation.

Pursuant to the Local Elections Act and the Operational Programs for National Minorities, but also in line with the recommendation that we have constantly stressed in our Reports since 2014, the Act on Electing National Minority Councils and Representatives has been drafted and sent into parliamentary procedure in late 2018. However, as the CARNM stipulates that minority council members and representatives are elected to a four-year term, it will not be possible to align holding these together with local elections, as they are held in different election cycles. We still believe, however, that possible amendments to the CARNM could specify that they are held simultaneously, thereby raising awareness in citizens about the elections for national minority councils and representatives, and increasing the number of polling stations and voter turnout, resulting in greater legitimacy of elected councils and representatives, in relation to both minority voters and local and regional government units.

Access to the media

Although the Operational Programs state that the Government of the RC will encourage the establishment of a news office for national minorities, aimed at more efficient production, sub-

production and broadcast of programs intended for the information of members of the national minorities in minority languages, such news office has not yet been set up on the public news service.

The National Minority Council has for years been pointing out that, while the public radio mostly fulfils its programme-related obligations in accordance with the law and agreement with the Government of the RC, the public television is still far from broadcasting content in minority languages and achieving an adequate presence of national minorities on air. The ghettoisation of minority content in the public television program has been pointed out, with two weekly broadcasts and a very modest presence of minority-related topics in the general program. Additionally, it has been warned that there is content in the program spreading stereotypes and prejudices about members of the minorities, which could lead to hate and violence. It is members of the Roma, Serb and Jewish minorities in particular who have contacted the Council concerned with the revision of events from the Second World War, especially with regard to the Jasenovac concentration camp, which is presented in detail in the section dealing with facing the fascist (Ustasha) and communist past. On the other hand, the Council assessed as a step forward the live television coverage of the marking of the Roma Holocaust Memorial Day, held in the village of Uštica near Jasenovac.

No national minority news office has yet been set up on the public news service, while minority-related content remains ghettoised in two weekly broadcasts, and a very modest presence in the general program.

Freedom of expressing minority affiliation

Nearly all data entered into the register of births can be changed, including the personal name, gender and citizenship. However, the MPA takes a strong position that the indication of national origin, as determined by the parents when entering the child into the register of births, may not be changed. Explaining this position, the MPA states that only that information from the register of births that affects the personal status of a person may be changed, adding that the residence or the parents' profession may not be changed, either. Additionally, they claim that neither the register of births nor the documents issued from it constitute any proof of national affiliation, as it is not proved with documents, but declared by the person instead.

However, belonging to a particular nation is a subjective feeling of every individual, that does not necessarily have to coincide with the national origin determined by the parents at birth, which is why it is necessary to allow changing this information in the register of births, to bring it in line with that feeling.

It is true that in some cases citizens merely declare their national origin, without having to prove their belonging to a particular nation, such as when invoking the right to preferential employment in public administration and the judiciary. However, national affiliation is sometimes proved. Minority associations, for instance, when applying for funding, have to prove that their members,

typically a certain number of them, belong to a national minority. In practice, a certificate from the electoral roll is most commonly used for this purpose, but it does not list underage persons without the right to vote, but are often members of cultural or sports associations. Therefore, a birth certificate or an extract from the register of births can be used, among other things, as a proof of national affiliation, if such information was entered at all, and if it coincides with the individual's feelings.

Finally, it should be possible to change the information on national origin in the register of births, since information in the birth certificate or an extract from the register of births which does not coincide with the subjective feelings, can, in a society infused with prejudices against members of certain national minorities, represent a burden no-one is due to carry.

Education of members of national minorities

There is a high level of CARNM implementation in the area of education in the languages and scripts of national minorities. After a separate unit for education in minority languages and scripts was set up at the MSE in 2017, in accordance with the Operational Plans, a new Ordinance was adopted in 2019 on the relevant type of training for primary school teachers and professional associates, which will finally enable permanent employment for a teacher of Ruthenian language and culture who, despite her competences, has not been able to resolve her employment status since 2012, since earlier regulations were not in line with training possibilities for teachers of Ruthenian language and culture, which we wrote about in the 2017 Report.

As the Vukovar-Srijem County prevents the registration of schools as institutions teaching in the Serbian language and script, the MSE and the Government of the RC should come up with a solution to ensure the rule of law and equality of all national minorities, as schools have been registered teaching in Czech, Hungarian and Italian.

Nevertheless, the problem of registering schools as institutions teaching in the Serbian language on the territory of the Vukovar-Srijem County persists. In the RC, schools can be formally registered as institutions teaching in a minority language and script, but there are only three such schools registered – one Czech, one Hungarian, and one Italian. The VSC, however, as the founding authority, for years refused to grant the necessary prior approval to amendments to the statute whereby several schools on the territory of the County would be registered as institutions teaching in the Serbian language and script. Although the 2014 amendments to the Primary and Secondary Education Act (PSEA) specified the obligation of counties to transfer the founding rights to cities and municipalities, if they so request, in cases of schools teaching in the languages and scripts of national minorities located in a LGU where equal official use of a minority language and script is prescribed, the VSC has been refusing to transfer the founding rights to the municipalities of Borovo, Markušica and Negoslavci, not regarding them as schools teaching in a minority language and script, since they are not registered as such in the court register, even though the Croatian Parliament Committee for Human Rights and the Rights of National

Minorities assessed such interpretation as unacceptable back in April 2016. Still, as the VSC would be willing to transfer the founding rights provided that the MSE rules that the (contentious) PSEA provision pertains to these schools as well, we have asked the MSE for opinion. Despite being the body obliged, according to the Operational Program, to take measures for its enforcement, the MSE replied that its relevant interpretation can only be provided by the Croatian Parliament, refraining from an opinion whether this provision refers to the schools in Borovo, Markušica and Negoslavci, as well.

Since the PSEA stipulates no sanctions in cases when a LRGU refuses to transfer founding rights, it is up to the MSE and the Government of the RC to find a solution ensuring the enforcement of the law and allowing these schools to register as institutions teaching in a minority language and script, as has been done with the schools teaching in Czech, Hungarian and Italian, thereby securing equal treatment for all national minorities in the RC.

In schools where separate classes are organised, the integrative potential of schools should be used to a much greater extent, by organising extra-curricular activities under the professional guidance of teachers and in a safe environment, that would be attended by all children together.

The existing models of education for national minorities are rarely criticised, except for the application of the A model, according to which classes are taught entirely in the language and script of the national minority, which is often subject to complaints, as classes taught in the Serbian language and Cyrillic script are separate from those taught in Croatian and the Latin script, in the war-torn Danube Region.

In those communities where multi-ethnicity is accepted, classes in the minority languages – Czech, Hungarian and Italian – are also attended by members of the majority population, and the fact that classes in Serbian are attended only by children from the Serb minority shows the strained relationship between the majority and minority communities.

Due to a lack of interest shown by the parents, also motivated with the influence of local political leaders, of both the majority population and the Serb minority, an inter-cultural school has unfortunately not taken hold, conceived as a model for joint learning for the children of Vukovar, and focused on the social recovery of the post-war multi-ethnic community and building a better understanding, mutual respect and cooperation. Along with a full understanding of the minority right to education in their own language, and taking account of the present educational models, but also the right of children to grow up in a socially integrated community, the integrative potential of the existing schools should be used to a much greater extent, by organising extra-curricular activities, under the professional guidance of teachers and in a safe environment, that would be attended by all children together. That would make schools much more the places of learning and practising tolerance, and help in the integration of still divided communities. Additionally, political leaders, on both the national and local level, should act towards integration, by emphasising the

contribution of members of the national minorities to culture, science and the values of the Croatian society.

Recommendations:

20. To the Ministry of Public Administration, to draft a Bill of the Referendum Act that will preclude matters related to human rights from being referendum topics, including the rights of national minorities;
21. To the Ministry of Public Administration, to draft a Bill of the Amendments to the State Registers Act that will allow changing data on the national origin as entered at the original entry;
22. To the Ministry of Culture and Croatian Radio-Television, to establish a news office for the national minorities, for more efficient (sub)production and broadcasting of programs intended for the information of national minority members, in minority languages;
23. To the Croatian Radio-Television, to increase the share of minority-related content in the general program;
24. To the Office for Human Rights and the Rights of National Minorities, the National Minority Council and the Ministry of Public Administration, to continue training national minority councils and representatives, with a goal of improving their work;
25. To the Ministry of Finance, to propose a modality for dealing with the problem of protecting funds on the accounts of national minority members;
26. To the Government of the RC and the Ministry of Science and Education, to implement necessary measures to allow the registration of schools on the territory of the Vukovar-Srijem County as institutions working in the minority language and script.

3.3. DISCRIMINATON ON THE GROUNDS OF RACE, ETHNICITY OR SKIN COLOUR AND NATIONAL ORIGIN

„It doesn't feel like before in this city where I grew up and spent my whole life. I am afraid when I meet people, and feel uneasy, I can see they view me as a danger and threat. It didn't use to be like that before, not in this city. I have a feeling that my movement is limited, that I need to watch where I'm going around the city I love. I've never thought about leaving this city, even when I had noting to eat, though there were chances of getting a job elsewhere. I'm thinking about leaving O. and Croatia now, though, because I feel rejected. I'm a true foreigner now, even though I've spent all my life here."

K.Š. from O., a national minority member, reported to the police as a migrant on account of his skin colour

Discrimination violates the person's right to equality, affronts dignity and inflicts considerable measurable damage to the individual and the society in general. Individuals can seek compensation for damages suffered through legal proceedings, which is elaborated in detail in the chapter on judicial protection from discrimination, while the level of damage to the society can be expressed through the costs of lower social cohesion and poorer economic performance, i.e. drop of the GDP. Bearing in mind that discrimination on the grounds of race, ethnicity or skin colour and national origin is often linked to discrimination based on other grounds, such as age, gender or financial status, adverse and harmful effects of such multiple discrimination on the society can take serious proportions in economic respect, as well.

Data are available[4], for instance, about the harmful effects of such form of discrimination in the EU area in 2018, according to which only damages due to lost earnings on account of this type of discrimination totalled nearly EUR 8 billion, with persons discriminated against on account of their race or ethnicity exposed 17.5% more than average to economic hardship, 9.7% more to the risk of physical assault, and 5% more to the risk of segregation in housing or unemployment. The costs of discrimination for the society due to lower social cohesion are also reflected in increased demands by groups exposed to discrimination from the social welfare system, given their more difficult access to the labour market and poorer housing conditions. If negative effects of the non-harmonised provisions of the SWA are added to such higher demands, for instance, consequences for both the society and individuals become even more acute.

The application of mutually exclusive provisions of the SWA reverses the very purpose of social welfare, as the complainant's husband and daughter are not granted rights on account of their not being citizens of the RC, whereas her already recognised rights are at the same time reduced, based on the fact that they live in the same household.

For example, we took action in 2018 following a complaint from a social welfare system beneficiary whose welfare-related rights had been abolished because of a non-compliance of mutually exclusive provisions of the SWA. She is a Croatian citizen living in a household with a husband who is a foreigner without permanent residence and an underage daughter with no citizenship or permanent residence. The application of Article 22 of the SWA denied her husband and daughter the right to guaranteed minimum allowance (GMA) as they do not have a regulated status in the RC, while her GMA was at the same time reduced from HRK 800 (for a single person) to HRK 480 with the explanation that her husband and daughter are members of the household, and the husbands contributes to household income through casual work.

Such application of mutually exclusive provisions of the SWA reverses the very purpose of social welfare, as the complainant's husband and daughter are not granted rights on account of their

[4] 'The Cost of Non-Europe in the area of Equality and the Fight against Racism and Xenophobia', EPRS, March 2018.

personal characteristics and circumstances, whereas her already recognised rights are at the same time reduced, based on the fact that they live in the same household. For this reason, we have recommended to the MDFYSP to pay particular attention, when drafting a new SWA, to the compliance of its provisions and purpose. Also, recommendations from the 2017 Report can be added on the need to amend the potentially discriminatory SWA provisions preventing GMA beneficiaries from possessing their own or using someone else's vehicle, and harmonise the criteria for defining isolation from public transport in all parts of the country, to avoid unequal treatment related to the ethnicity and national origin of beneficiaries.

Although the process of drafting a new SWA has been initiated, that should envisage both organisational and structural changes, the Government stated in its 2017 Report Opinion that our recommendations about the potentially discriminatory SWA provisions would be taken into consideration. However, as the draft bill of the new SWA has not been made available to us at the time of writing this Report, we repeat the recommendations.

As regards combating discrimination on account of race, ethnicity or skin colour and national origin, statistical data on the national minorities in the RC are either mostly non-existent or insufficiently reliable or verifiable, or are collected irregularly. For instance, SWCs do not collect statistical data on the beneficiaries of social welfare services that would provide insight into how many Roma families use the GMA, while the CHIF cannot provide information on how many Roma have health insurance. The competent authorities explain this by saying that they want to avoid discrimination, and that regulations do not allow the collection and processing of personal data, particularly not so sensitive. However, according to an expert opinion by the Personal Data Protection Agency, the General Data Protection Regulation (GDPR), in force as of May 2018, sets down appropriate protective measures to be applied in processing special categories of personal data for statistical or the purposes of scientific research. Such measures include, for example, pseudonymisation or processing that does not allow identification of respondents, to protect their identity and avoid the possibility of their identification, but data collection or processing is not expressly forbidden. On the contrary, Recital 52 of the GDPR states that derogation from the prohibition on processing special categories of personal data, including those on ethnicity or national origin, should be allowed when provided for in Union or Member State law and subject to suitable safeguards, so as to protect personal data and other fundamental rights, where it is in the public interest to do so, in particular processing personal data in the field of employment law, social protection law and for health security.

As combating discrimination is definitely in the public interest, and the availability of clear, reliable and verified statistical data on particular ethnic or national groups is necessary for institutions in determining, for example, the level of coverage of the Roma with mandatory health insurance, as nearly 40% of them aged between 31 and 65 have some kind of long-term medical condition, the state authorities should harmonise their operations in collecting special categories of personal data, particularly those on ethnicity and national origin, with the GDPR.

Migrants are exposed to discrimination, too, having been in an increased focus of the general public and society since 2015, especially because the most numerous seekers of international protection are also the most visible, those from Afghanistan and Syria. Although Germany, the United Kingdom, France, Spain and Italy then received the most immigrants, the same year also saw 2.8 million people emigrate, mainly from Germany, Spain, the United Kingdom, France and Poland. The same year, in 2015, emigration exceeded immigration in 17 EU countries, including Croatia. This shows that migrations have recently become more short-term, flexible and with a gradual shift towards trans-national movements, not following the earlier patterns of long-term settlement, but rather being a more intensive movement within the European space. It can therefore be assumed that migrants will become everyday occurrence in the RC, which is why particular attention needs to be paid to their inclusion in our society, unaccustomed to such phenomena.

Migrations expose every society to new challenges, from those related to development and health, the concept of multiculturalism, and respect and protection of fundamental human rights, to the problem of migration-related crime. All EU member states, including the RC, have been facing the particular challenge of integrating migrants and making them accept the values established in their recipient communities, especially local ones.

One of the more recent challenges in this context is possible discriminatory ethnic profiling of migrants, i.e. decision made by a police officer to stop a particular person, solely or mainly on account of their race, ethnicity or skin colour and national origin. Such illegal practices can have exceedingly harmful effects on communities that are exposed to them, yet their effectiveness is dubious as they are not substantiated with evidence of crime reduction or increased safety. We did receive a complaint by a CSO about possible ethnic profiling of migrants, but such illegal practices are frequently applied against members of the Roma minority, particularly by the security staff in big shopping centres. We have warned the owners of those companies of the harmful consequences of such actions, and advised the victims about their rights and proceedings to protect them, including claims for damage compensation.

Finally, it is the Serbs who are increasingly exposed to discrimination on the grounds of race, ethnicity or skin colour and national origin in the RC. This is obvious from the complaints stressing exposure to harassment due to their national origin, and discrimination in employment on account of speaking the Serbian language, but we have also for several years been witnessing a trend of deteriorating relations of the majority public and certain political actors with regard to this community. Their difficulties in exercising minority rights were elaborated in more detail in the previous chapter, and their integration would largely be helped by a more efficient implementation of the housing care program, especially for former occupancy and tenancy holders, about which we write in the following chapter.

Members of the Serb national minority

Serb National Council data on the occurrences of violence and hate speech against Serbs in 2018 indicate an increase of hate speech and ethnic intolerance of Serbs in the media and social networks. At the same time, public actions characterised by intolerance have taken place, with several statements made by public figures expressing ethnic intolerance and historical revisionism. From seven recorded cases of insults and threats made to Serbs and Serb institutions in 2014, the number had grown to 105 in 2018. However, the number of physical assaults had decreased from 16 in 2016 to five in 2018, which is encouraging.

According to data available from the complaints and contacts with CSOs, it is the Serb returnees to places of their pre-war residence who are particularly affected by discrimination, typically on multiple grounds, including national origin, age, and financial status, as they are mostly elderly people with very low income, living in under-developed rural areas where the basic services, even water and electricity, are unavailable. The exposure to heightened risk of ethnically motivated violence and hate speech, and the insufficiently effective system of housing care in the areas of special state concern, including delays of several decades in the reconstruction of war-damaged houses, contribute to these difficulties. A case upon which we acted in 2018 is hardly encouraging, either, when a returnee family's house and farm buildings had been set on fire, the police established that the fire had been started deliberately, but the perpetrators have not yet been found.

Unfortunately, the Serbs in general in the RC, returnees or not, have become increasingly exposed, as shown by SNC data, to negative attitudes of the majority population. Regrettably, there are no effective measures in place aimed at encouraging the children and youth to nurture diversity and build good inter-ethnic relations, especially in the areas that were affected by war. An extensive multi-year research of educational choices and various inter-ethnic attitudes in children and their parents in the four Croatian regions that are more ethnically mixed than others (Istria, Slavonia, Daruvar and environs, Vukovar and environs, Baranja) has shown that the weight of war has been imposed on children by adults. Children respond in their attitudes to signals from their environment that clearly communicates obsession with war, with messages coming from the Croat and Serb communities often being totally opposite, strongly conflicting, very exclusive, and emotionally charged, and the children do not have a place to question such messages in peace, process and integrate them, since the school does not offer such a thing in its present curriculum.

These occurences have unfortunatelly been exacerbated also through the rise of historical revisionism, which we speak more about in the section on confronting fascist (Ustasha) and communist past, and difficulities related to minority languages and scripts use also do not contribute to their reduction.

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Affiliation to minority communities is therefore not always desirable among members of the minorities themselves, as it sometimes creates problems and leads to negative views and mistrust of the environment. In 2018, we acted upon a case of a citizen who had changed his surname in 1991, renouncing his father's in favour of the mother's surname, since he had not been in good relations with his father, who had left him and his mother following his birth. However, he had also faced inconveniences, as many had considered him to be a Serb, even though he considers himself a Croat and Catholic. Despite the name change, a university has repeatedly rejected to issue him with a diploma containing the changed personal information. With employers insisting on presenting a diploma, he had several times taken up jobs below his qualifications, trying to avoid discomfort, so as to not have to present a diploma with his father's surname and explain the circumstances surrounding the name change.

However, data on the rehabilitation and reconstruction of the power grid in those villages that had been connected to the grid before the Homeland War are encouraging, as those are mainly areas with the Serb returnee population. Such activities have so far been mostly sporadic and limited in scope, though a total of 156 connections need to be rehabilitated and reconstructed in 15 power distribution areas, with the costs totalling over HRK 39 million. However, works of reconnecting several dozen households in some 20 villages throughout the RC to the power grid started or finished in 2018, which points at a welcome stepping up of the activities.

There are data, however, about a total of 64 connections in 40 villages with permanent residents, where the costs of re-connecting would total HRK 19.6 million. On the other hand, there are 101 connections in 39 villages, with a HRK 19.3 million re-connecting costs, where there are no data about permanent residents. As these connections entail high costs, are located in mainly rural areas, with unresolved property titles and the owners absent, and the housing units technically not ready for connection, it is understandable that plans for their re-electrification are being developed as part of regular network development and construction plans. It is regrettable, however, that considerable financial funds and time have been wasted and will need to be invested to make up for earlier inactivity and a failure to implement these programs.

Considerable funds are necessary for the reconstruction or development of communal and social infrastructure facilities, too, including the costs of housing improvement in the areas of special state concern, largely falling behind other parts of the RC. In this regard, the award of HRK 6 million of financial support under the Program of Supporting Sustainable Return in the Areas of Special State Concern to 25 projects in six cities and 19 municipalities, does not seem particularly significant. Although the Government Decision on the implementation of Programs financing projects of local infrastructure and rural development in the areas populated with more than 5% of national minority members through MRDEUF, Ministry of Agriculture and MEEC activities is encouraging, more considerable funding needs to be invested in those areas, especially into objects of communal and social infrastructure.

Members of the Roma national minority

As stated by ECRI, the Roma remain severely exposed to discrimination around Europe, a result of numerous obstacles they face in education, employment, housing and health protection, as well as their strong social exclusion, prejudice, stigmatisation, hate speech and violence. Unfortunately, this largely applies to the RC as well. A baseline data study of the inclusion of the Roma in the Croatian society by the OHRRNM, representing a significant step forward in collecting complete and comprehensive statistical indicators of the way of living and the size of the Roma population, including their territorial representation, brings a rather dismal picture.

For example, discrimination against the Roma causes real costs for the society, through missed opportunities for employment and earning due to the exclusion of Roma girls from the school system, as well as discrimination on account of gender and national origin. Although there are other aggravating factors, too, Roma women are excluded from the labour market to a much greater extent, with 75% of them unemployed or working as housewives, and 58% of those in working age having never been employed, while only 20.8% of Roma women and 54.4% of Roma men worked for money in the last 365 days.

The Roma are also exposed to ethnic profiling, particularly in shopping centres. According to data from the FRA Annual Report for 2018, 45% of the Roma in the RC think that they have been stopped by the police in the last five years solely on grounds of their Roma background, and not on account of unlawful behaviour. Therefore, the police conduct in pulling individuals over should be paid more attention to – for instance, the share of particular (visible) minorities in such procedures on the monthly level could be statistically presented and compared with the average number of such individuals on the territory of the particular police station or authority. Data collected in such a way would certainly contribute to developing a more efficient and balanced police practice, and reduce possible discriminatory conduct.

Such monitoring of police conduct is facilitated by the baseline data study, showing a population of 24,524 members of the Roma national minority in the RC, which is the first more precise indicator

of their size so far. According to the 2011 Census, there are 16,975 Roma. However, the study also brings data providing grounds for justified fears that the position of the Roma in the RC will not improve.

Namely, as many as 69% of Roma children aged 3-6 do not attend kindergarten or pre-school, mainly because their parents do not consider that necessary. Consequently, many Roma children do not possess adequate knowledge of the Croatian language when they are enrolled in primary school, rendering their inclusion difficult from day one. On the other hand, 95% of Roma children aged 7-14 do attend primary school, almost reaching the percentage of coverage in the general population. However, data on secondary education bring a completely different picture – only 31% of the Roma aged 15-18 attend secondary school, with a notable gender difference – 36% of Roma boys and only 26% of girls attend school. The principal reasons for this are the finances, poorer earlier performance in school, and entering marriage, including pregnancy and childbirth. According to information from December 2018, the National Foundation for the Support of Student Standard will award 26 scholarships to members of the Roma minority in the academic year 2018/9, a step forward compared to the year before, when 22 scholarships were awarded. However, this figure is devastating, given that a quarter of the Roma aged 18-24 cite the finances as the reason for not attending school at present. Even so, some progress has been made. After we stressed in out 2017 Report that Roma students who failed to pass a school year were denied HRK 500 scholarships, following which they drop out altogether, that decision has been amended, and Roma students repeating school years will continue receiving reduced scholarships of HRK 300.

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Also, it is welcome that the MSE will be implementing eight projects under the program of supporting the education of students from the Roma national minority. HRK 8.3 million will be allocated to finance student transport, extended stay after school, additional and remedial classes, support in learning the Croatian language, extra-curricular activities, additional teacher training and other. However, only 190 children from three kindergartens and 548 students from 20 primary schools will be included, although 69% of Roma children aged 3-6 do not attend kindergarten, pre-school and/or primary school, while over 95% do attend primary school, or 935 in total. These data show that it is necessary to significantly increase the coverage of Roma children aged 3-6 with kindergarten, pre-school and/or primary school, as well as the number of primary school students who will be given appropriate support and equipment for schooling. Hopefully, the implementation of these projects in 2019 will show visible improvement.

Another serious problem is unemployment of the young Roma, as indicated by CES data – the Roma aged 15-19 make up 40.8% of the total number of unemployed Roma, with 68.62% of them without, and 24% with only primary school completed. Therefore, when they do get employment, it is mostly public works – 630 out of the 890 Roma employed in total in 2018 were employed in this way, which does not provide permanent employment and does not increase the prospects of employment through obtaining permanent qualifications. On the other hand, the measure of on-the-job training is successful in leading to permanent employment in 77.1% of cases, but only eight Roma participated in it in 2018. Still, by working directly with unemployed Roma and interested employers, and with a possible extension from 6 to 12 months, this measure ought to be implemented more frequently and efficiently.

Except for employment, the Roma are also excluded from the society on account of their housing conditions. Only one in four Roma households in the RC is spatially integrated with the majority population, while others live in concentrated, isolated localities. Their housing conditions, in terms of the availability of particular communal/structural services in the households, and the presence of dedicated rooms, are linked to the type of locality, with separate Roma communities much less equipped, which points at another negative consequence of their spatial segregation. It is therefore necessary to design measures for their incorporation within majority housing and provide facilities raising the quality of living. A good example of cooperation between a Roma community and a LGU, according to available data, is the Rijeka neighbourhood of Rujevica, with a development of infrastructure, legalisation of illegal housing, and connection to the supply networks all underway. However, there are difficulties in this community, as well as others for which data are available to us, such as Capraške poljane in Sisak or Josip Rimac in Slavonski Brod, related to the cooperation between the LGU and RC, which owns a part or most of the land parcels, with the procedures of subdivision or title transfer to the cities lengthy and still ongoing.

75% of the Roma live in separate Roma communities, where the housing conditions, availability of utility services, and equippedness of households are very poor, as yet another consequence of their geographical segregation.

That is because LGUs cannot invest public funds in real properties they do not own, including infrastructure or facilities on land owned by the RC. Although the State Assets Management Act, in force as of May 2018, stipulates the possibility of the RC awarding land parcels to LGUs, to enable their implementation of operational programs, such as that for the national minorities, which would greatly simplify such investments, we have no information as to whether such transfers have taken place. Presumably, however, there will be some in the still-unavailable reports on their implementation.

Generally, a better and more efficient cooperation and coordination in resolving the problems specific for the Roma national minority is lacking in the work of competent national, regional and local bodies. In the Međimurje County, for instance, where by far the most Roma live, 6368 according

to the survey, they face considerable difficulties in employment, education and housing, with a high crime rate among the underage Roma particularly pronounced, there is an obvious lack of coordination and cooperation between the state administration bodies, for instance the CES, MDFYSP and MSE, but also between these bodies and regional and local institutions. It is definitely necessary to additionally and adequately develop their capacities, since they do not possess sufficient financial funds or staff to be able to deal with such serious problems in an effective way.

Experts dealing with these problems on the local level point out that coordinated teams of experts from the MI, the judiciary, education and health systems, social welfare centres and employment offices, regional and local government bodies, schools, CSOs, as well as inhabitants themselves, could initiate the necessary changes. Their activities, particularly those preventive, should be focused on Roma children and youth, with the support of local police officers and social workers in the Roma communities. The Commission for monitoring the implementation of the National Roma Inclusion Strategy should consider the possibility of creating such inter-disciplinary teams that would facilitate coordinating and planning activities on the local level. Making such decisions and coordinating should be nothing new for the Commission, too, as shown by the May 2018 adoption of conclusions about the follow-up of the process of legalising Roma communities and Roma-populated areas, which coordinated the actions of the MCPP, LRGUs and other competent bodies.

Given that data about the needs of members of the Roma national minority in the RC have become very extensive, comprehensive, reliable and accurate for the first time in 2018, providing baseline values for the comparison of future successes in the implementation of the National Roma Inclusion Strategy, it is not good that the Government has not yet adopted the already prepared draft Action Plan for implementing the Strategy. Also, data about the implementation of the measures in 2018 are not available, although a very good and useful online tool for their monitoring has been created[5].

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Applicants for international protection, irregular migrants and persons granted international protection

The one thing applicants for international protection, irregular migrants and persons granted international protection have in common is that they are often visibly different from the majority population. For example, among the applicants for international protection in the RC in 2018, those

[5] http://nsur.hr/

from Syria and Afghanistan were the most numerous, and Syrian citizens were also admitted as part of their transfer from Turkey. They differ from the majority population not only by their appearance, i.e. skin colour, bur also language, religion, culture and customs. Such visible differences sometimes provide grounds for aversion, dilemmas, even repulsion or fear, with a particularly important role played by the media and public service, as well as politicians. It is therefore exceptionally important that they, at the time of fake and unfounded information, such as we could see in the instance of statements and reports about the Marrakech agreement, which is covered in more detail in the chapters on applicants for international protection and irregular migrants, and international cooperation, communicate with caution and pay particular attention to avoiding the spreading of unfounded and half-true information about migrants.

It is necessary to open up room for dialogue in the public where the issues of migrants and migrations would be objectively discussed, and refute some of the myths created around them. Unbalanced and sensationalist reporting makes citizens, when they meet persons of different skin colour in a shopping centre, call the police as they fear 'the migrants walking around', seeing them as some kind of threat, while in fact they were employees of a cutting-edge technological company employing experts from around the world. It is therefore key for the competent bodies to provide accurate and timely information and act preventively and transparently, in order to avoid spreading fear or much more dangerous hate speech or hate crimes.

For example, the MI announced a decision on awarding financial funds for the implementation of projects for the reconstruction of the former refugee centre Mala Gorica near Petrinja, which would be equipped to accommodate some 200 asylum seekers. However, sensationalist reporting about a 'big reception centre' being built, 'upsetting the citizens', accompanied by a lack of timely information, created an atmosphere of fear, agitation and perplexity, even leading to conflict between citizens and the local government which, according to the mayor's claims, was not informed about the activities planned.

For this reason, when preparing this Report, we asked all big cities, as well as those where asylum seekers and persons who have been granted international protection would be located in accordance with deployment plans, to provide information, experience and observations about the implementation of the integration policy. We also asked whether they were aware of the measures and their responsibilities within the integration policy, whether they had received instructions for communicating with the local community where asylum seekers and asylees would be accommodated, especially in cases of the first arrival of one such group, including incidents and crises, and only Zagreb, Osijek and Slavonski Brod replied affirmatively. The City of Zagreb for the first time defined the strategic area of integration of immigrants in its Social Plan 2014-2020, including measures to be implemented. The issue underlined in particular is the lack of knowledge of the Croatian language, forcing persons under international protection to realise their rights before city administration bodies with the help of others who speak at least some Croatian, which does not

suggest a particularly effective system of migrant integration being in place in the biggest city in the RC.

Osijek, it seems, is the first city in the RC to develop a plan of local integration, mainly as support in creating the city strategy and action plans for integrating third-country nationals in the areas of education, health care and social welfare, employment and housing, local capacities, safety and raising citizens' awareness, and represents a good example that other cities should follow. This was done under the INTEGRA project, initiated by a local CSO, in a participatory process spearheaded by researchers from the Zagreb University, with participation from the City's representatives, the regional Office of the Ombudswoman, CES, Red Cross, CSOs and religious communities. Osijek also pointed out that, having no experience with the residence of persons granted asylum, they had numerous dilemmas and difficulties in preparing their integration, but had received no clear and unambiguous instructions for communicating with the local community those persons would be located in, did not know what to do in case of incidents and crises, no announcements had been made of the time of arrivals, or the number of people, family composition, or parts of the city where they would be accommodated.

The information from the Central State Office for Reconstruction and Housing Care gives reason for concern, according to which 41 apartment lease contracts for a total of 113 persons granted international protection were terminated in 2018, as they had lost the right to free accommodation in the two past years. The question therefore arises whether they are still in the RC, where are they located and what difficulties are they facing. Such a particular and uncoordinated integration system indicates that the difficulties could be considerable. According to an OECD[6] publication, a coordinated approach and involving local, regional and national authorities in the integration process are key, while the sustainability of integration measures depends on collaboration between the stakeholders, which is the direction the integration processes in the RC should take.

In 2018, a web-interface for monitoring the implementation of the integration policy was developed, as a good tool intended for competent authorities to enter data about the implementation of integration measures that should enable immediate access, automatic data processing and more detailed reporting on the integration framework and its implementation, direct communication between the stakeholders and other. Regrettably, no data have been entered at the moment of preparing this Report, even though the Action Plan for Implementation of the Integration Policy has been in effect since 2017. In addition, an evaluation of the existing framework for the integration of migrants in the RC has shown that the former national integration framework did not include systematic development of measures on the local level, with no mechanisms in place to enable transfer of good practices to other local government units. Thus, it is good that development of local strategies is encouraged, but the national authorities should still provide clear, comprehensive and timely information about that to LRGUs, and assist them in developing them.

[6] https://read.oecd-ilibrary.org/social-issues-migration-health/indicators-of-immigrant-integration-2018_9789264307216-en#page1

Frameworks for integration on the local level should also, among other things, focus on the strategic area of work and employment, since most persons granted international protection will become social welfare beneficiaries after the expiry of two years of free accommodation unless they secure their financial independence. The MDFYSP awarded several projects in 2018 aimed at increasing the capacities for employment, mitigating the risk of social exclusion and poverty of marginalised groups, and raising the quality of work of experts working with them, which is commendable. However, although contracting projects aimed at improving social inclusion is expected in 2019, too, the priority should be placed on their employment, more so given the poor results achieved so far – only 22 requests for active employment measures of persons under international protection were granted in 2018.

It is necessary to open a dialogue in the public in which the issues of migrants and migrations would be discussed in an objective way, and myths dispelled that are created around them , and the competent bodies should provide accurate and timely information and act preventively to avoid spreading fear, or even much more dangerous hate speech and hate crime.

Poor results in employment are probably related to the fact that the CES did not have information about the institutions organising Croatian language courses for persons under international protection in 2018, whose lack of knowledge of Croatian is one on the biggest obstacles to integration and exercising their rights. This points at the urgency to improve coordination between competent authorities. In 2018, 1578 individual consultations with 312 persons under international protection were conducted at the CES – had they received information about courses in the Croatian language, history and culture, the attendance would have certainly been bigger. As MSE data show, despite the EUR 560,000 allocated to the projects aimed at the integration of asylees and persons under subsidiary protection, only 109 persons were included in the program of teaching the Croatian language, history and culture in 2018, and only 30 actually completed it.

Recommendations:

27. To the Ministry of Demography, Family, Youth and Social Policy, to draft a Bill of the Social Welfare Act that will meet social welfare purposes and will not include mutually exclusive provisions resulting in diminishing the present rights;
28. To the Ministry of Demography, Family, Youth and Social Policy, to change the potentially discriminatory provisions of the Social Welfare Act preventing beneficiaries of social benefits from possessing their own, or using someone else's vehicle, and harmonise the criteria for defining transport isolation in all parts of the country, in order to avoid unequal treatment linked to beneficiaries' ethnicity and national origin;
29. To competent public administration bodies and authorities, especially in the area of interior affairs, health, social welfare, labour, pension insurance and education, to start collecting and processing special categories of personal data, including those on the ethnicity or national origin, with the application of adequate protective measures;

30. To the Ministry of the Interior, to develop the methodology for collecting data on the ethnicity or national origin of persons stopped by police officers, in order to establish potentially discriminatory ethnic profiling and determine the efficiency of such practices;
31. To the Government of the RC, to step up investments in the areas inhabited by members of the national minorities, especially into communal and social infrastructure facilities;
32. To the Government of the RC, to adopt an Action Plan for monitoring the National Roma Inclusion Strategy;
33. To the Ministry of State Property, to improve communication with local government units so as to end long-standing unfinished property transfer of parcel subdivision procedures in Roma-populated communities;
34. To the Commission for monitoring the implementation of the National Roma Inclusion Strategy, to consider the possibility of setting up interdisciplinary teams from the Ministry of the Interior, Ministry of Justice, Ministry of Education, Ministry of Health, social welfare centres and employment services, regional and local government bodies, schools, civil society organisations and local community members, in order to try to solve difficulties specific of the Roma national minority;
35. To the Croatian Employment Service, to implement the measure of in-house professional training more efficiently, by working directly with the unemployed Roma and interested employers, while extending the duration of this measure to 12 months;
36. To the Ministry of the Interior, to inform local communities and citizens timely and transparently about accommodating migrants and persons under international protection;
37. To the Ministry of Science and Education, to intensify the information and implementation of programs for learning the Croatian language, culture and history for persons under international protection;
38. To the Office for Human Rights and the Rights of National Minorities, to inform LRGUs extensively, clearly and timely of the need to adopt local strategies for successful integration of persons who have been granted international protection into local communities, and provide assistance in their developing.

3.4. PROVISION OF HOUSING

„Previous years, I have contacted the Knin Regional Office several times asking for help, requesting that my house be fixed, but, according to the last decision by the Regional Office, the house is beyond repair and can't be made habitable... I'm and old man of 80, my wife is a year my junior, we are both of poor health, and such situation has simply become unbearable. Given the present state of affairs, instead of the house I was assigned, I want to be given a rented flat in Knin."

New regulation of the administrative area of provision of housing

One of the most important events in the field of reconstruction and housing care in 2018 was the adoption of the new Act on Housing Care in the Assisted Areas (AHCAA), in force as of 1 January 2019, to which the Ombudswoman contributed, too, through the process of consultation with the interested public. For example, we managed to facilitate filing applications for housing care for applicants and their family members, who do not have the list both their personal identification number (OIB) and citizen's unique register number (JMBG), as only the OIB is required from the family members. Our proposal was also accepted to define more precisely the criteria for establishing whether a housing unit has not been used for over six months, i.e. whether its user has abandoned it, which is the ground for losing the right to housing care. The act stipulates that this needs to be established through investigation on the ground, the status of power and gas usage, and statements by neighbours or building residents' representatives, which is certainly commendable.

The goal of the AHCAA is to ensure better and more effective implementation of housing care measures, both in the areas of special state concern and assisted areas. However, it is questionable whether it will lead to accelerating procedures and facilitating the realisation of the right to housing care, as its scope has been expanded from the present 185 LGUs from the Act on the Areas of Special State Concern (AASSC) with new 151 LGUs, or by 81.62%. Besides, in accordance with the AASSC and sub-legal acts, over 6000 applications for housing care were submitted annually, yet less than 10% have been resolved in total through all models. It is therefore unclear how the expansion of the scope of application of the AHCAA is expected to result in a better and more efficient implementation of housing care measures, as its explanation does not indicate that additional financial funds and housing units have been proportionally ensured in the state budget, but only that funds will be provided in line with the limits defined in the Economic and Fiscal Policy Guidelines 2019-2021. Therefore, the recommendation from the 2017 Report remains about the need to ensure additional resources and housing units for all beneficiaries provided housing care on the priority lists.

Although the territorial scope of implementation of the AHCAA has been expanded, it does not cover 219 out of the 555 LGUs in the RC. Given the definite need to adopt comprehensive legislation that would apply to the whole territory of the RC, we have recommended that in several reports, and the CSORHC said it would consider the recommendation after implementing the housing program in the assisted areas. It remains unclear, however, when that will be done, keeping in mind the present rate of resolving housing care applications, which is why this recommendation remains.

Although the territorial scope of implementation of the AHCAA has been expanded, it does not cover 219 out of the total of 555 LGUs in the RC, so that the need remains to adopt comprehensive legislation that would apply to the whole territory of the RC.

The AHCAA regulated some ambiguous situations better than the AASSC, and introduced some new institutes, which is creditable. This primarily refers to the broad definition of the categories of beneficiaries, and more extensive regulation of the loss of the right to housing care. Improvements include regulating the signing of gift agreements, and those on buying housing units to which the right to housing care has been realised by all family members, or all users, who thus become co-owners in equal shares, as well as stipulating a shorter deadline for submitting applications for buying housing units. Regulating the possibility to realise the right to housing care for persons who had been de facto users of state-owned housing units for five years before the adoption of the AHCAA, but with no decision allowing it, is particularly important, as well as regulating housing care for victims of domestic violence.

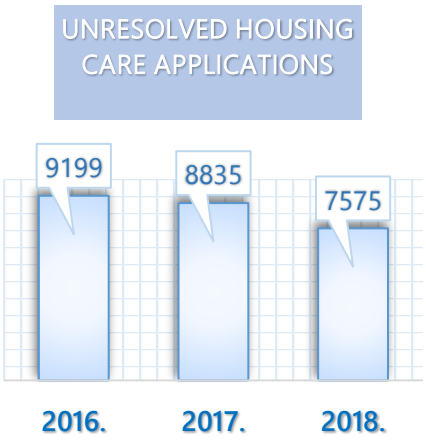
Unfortunately, despite our suggestion, the AHCAA did not stipulate the possibility to appeal against decisions of the Commission for Assessment of the Status of Habitability of Housing Units, as was set forth by Article 9 of the AASSC. The CSORHC rejected this proposal with an explanation that the application of this provision was difficult, as clients were allowed participation in the procedure pursuant to the APA, and that decisions of the Commission may be contested by appealing to the decision on the substance of the matter. However, Article 9 of the AASSC stipulated that clients have the right to appeal to assessments by the Commission, which is then ruled by the head of the state administrative office or competent administrative office of the City of Zagreb, within 15 days from the receipt of the notification in writing about the assessed status of habitability from the Commission for Assessment of the Status of Habitability of Housing Units. Therefore, it is unclear what specific difficulties such provision would create in practice. Accordingly, the AHCAA should be amended, to allow clients to lodge appeals to assessments made by the Commission, as was stipulated by the AASSC.

The course of housing provision and difficulties in exercising rights

The total number of unresolved cases of housing provision dropped in 2018 in relation to the year before, although the figure remains significant. According to CSORHC data, there was a total of 7575 unresolved cases as of January 2018 related to housing care pursuant to the AASSC and the Regulation on Determining the Status of Former Holders of Protected Tenancy and their Family

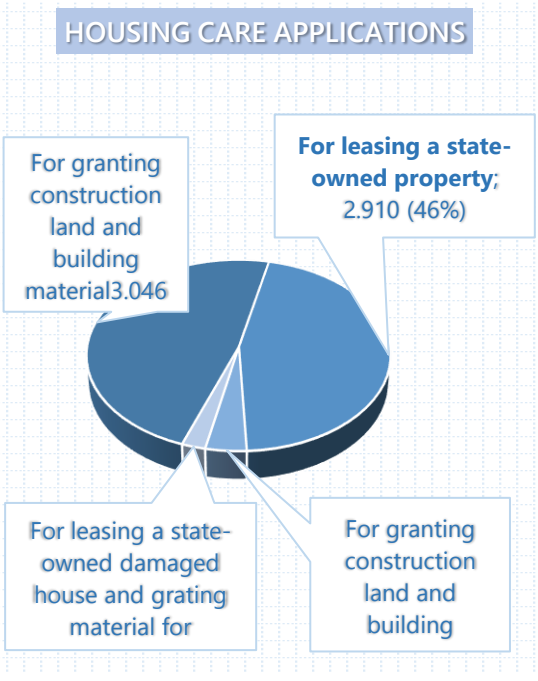
Members and the Conditions and Manner of their Housing Care (Regulation). Of this number, 1218 applications were related to former protected tenancy holders, and 6357 to other beneficiaries to be provided housing care according to the lists of priorities for the current year. In comparison with January 2017, with a total of 8835 unresolved applications, the number had dropped by 1260, which points at more expedient processing, since the number of unresolved cases had decreased by only 364 in 2017 compared to January 2016.

The intensification of procedures is particularly noticeable in the case of former protected tenancy holders, as the number of unresolved cases dropped from 1218 at the end of 2017 to only 290 by the end of 2018, or by as much as 76.19%. The total number of beneficiaries to be provided housing care based on priority lists decreased as well, though not as much, with a total of 6477 at the beginning of 2017, and 6357 at the beginning of 2018. An initiative by the CSORHC to carry out inspections of the efficiency of work of state administration offices certainly contributed to the more expedient resolving of remaining cases.



As in 2017, the most housing care applications referred to the provision of housing through donating building material for the repair, building or rebuilding family homes on the construction land owned by the applicant (3046, or 47.92%), followed by 2910, or 45.78% of applications for housing through renting habitable state-owned housing units. The remaining 401 applications were related to the provision of housing by allocating state-owned construction land and building material for building family homes (254, or 4%), while 147, or 2.3%, included renting damaged state-owned family homes and donating building material, where the interest was the least.

The number of complaints we received dropped by as much as 25% in 2018, which, along with the earlier noted increase in the number of resolved cases, shows some true progress in this administrative area, as confirmed by many beneficiaries and LGU heads. Besides, it is important to point out very good cooperation and communication with the CSORHC, which provides requested opinions in due time.



However, procedures still take a long time, as shown by most of the complaints received, with some lasting for more than 10 years since the application was filed. We acted upon the complaint by a former protected tenancy holder who had filed an application back in 2004 for realising the right to housing care through leasing a state-owned flat in the Zadar County, had only been given approval in 2013, which was not

followed, however, by signing a lease agreement and awarding a housing unit. As the CSORHC stated several times, the problem in this case is not only a lack of an adequate housing unit, but also a poor response in their purchasing, which the CSORHC cannot influence, making the result of each tender uncertain. The complainant has been informed that the CSORHC would, in cooperation with the Agency of Real Property Transaction and Mediation (ARPTM), continue to announce public tenders for the purchase of housing units, but that, given the objective difficulties in purchasing apartments through ARPTM public tenders, other models for their provision were being considered.

Such (lack of) action has brought housing care beneficiaries, not by their own fault, into a difficult and uncertain situation, with final and executive decisions whereby their right to housing care has been recognised remaining a dead letter. Accordingly, if there are problems in implementing decisions granting rights to housing care through leasing state-owned apartments or family houses in or outside the assisted areas, the beneficiaries should be given an option to realise their rights in other areas, or in accordance with other housing care models.

In 2018, problems remained in the practice of first-instance bodies acting on the Ordinance on the Terms and Manner of Exercising the Right to the Allocation of Building Materials outside the Areas of Special State Concern, and the Ordinance on Construction and Standards for Repair, Reconstruction and Construction of Family Houses through the Allocation of Building Materials and Apartment Buildings in the Areas of Special State Concern, since they are not harmonised with all amendments to the AASSC. In this regard, we recommended to the CSORHC in the 2017 Report to issue an instruction to eliminate these difficulties. The CSORHC replied that, in accordance with its competences under the Public Administration System Act, it provided expert assistance to the first-instance bodies, and had carried out numerous administrative inspections of their actions, and conducted consultations on the application and interpretation of particular legal and sub-legal provisions.

The number of complaints we received dropped by as much as 25% in 2018, which, along the earlier noted increase in the number of resolved cases, shows some true progress in this administrative area, as confirmed by many beneficiaries and LGU heads.

Citizens also faced problems in buying housing units where the right to housing care has been realised through the model of leasing state-owned apartments or family houses, due to unpaid rent or other costs related to their use. Since these beneficiaries are, by and large, in a difficult financial situation, it is hardly surprising that they cannot meet their financial obligations arising from the Ordinance on Leasing Housing Units and the Apartment Lease Act. Therefore, continuation is welcome of the process of establishing the right to the write-off of debts based on the Decision on the write-off of lease-related debts for the housing units owned by the RC and managed by the CSORHC, including the development of the application for entering, processing and monitoring data on the lease contracts and calculations, and for monitoring the execution of planned activities.

According to CSORHC data, 6940 field inspections were carried out in 2018, and 848 decisions issued on the write-off of lease-related debts. At the same time, 290 new lease contracts were concluded, as well as 84 annexes with beneficiaries who had signed contracts after 1 October 2014, but had registered possession of the real property before this date. However, the condition for debt write-off is a one-off payment of the outstanding debt created in the period not included in the statute of limitations, i.e. between coming into effect of the Decision and the conclusion of the contract. The erroneous practice of the CSORHC and its legal predecessors so far of not signing contracts with beneficiaries before their coming into possession of the property, which provides a legal basis for charging the rent, should not go against the interests of beneficiaries, and the CSORHC should therefore write off outstanding debt without retroactively charging due and unpaid rent for the period between 1 October 2014 and the conclusion of the contract.

We recommended in our 2017 Report that the scope of the Decision on the write-off of lease-related debts be extended to the entire RC, which was not accepted, with an explanation that the activities arising from it are not deemed to have the characteristics of social welfare measures. According to the CSORHC position, acting in accordance with the Decision is a one-off activity related to the write-off of due and unpaid rent registered in the 2008-2018 period, for which the period of limitations has passed, and most of which refers to the areas of special state concern. Bearing in mind that particularly vulnerable groups, such as returnees-former tenancy holders, domestic violence victims, beneficiaries of the Regional housing care program, and others, have used this measure in and outside the assisted areas, this recommendation remains.

In addition, as the Decision allowed the CSORHC to write-off claims beyond the statute of limitations older than three years to beneficiaries/tenants, mostly persons living in difficult financial and social circumstances, we also recommended to the CSORHC in our 2017 Report, depending on the financial abilities and circumstances in the particular case, to write off those claims that have not passed the statute of limitations. The CSORHC will allow those who meet the criteria from the Regulation on the Criteria, Benchmarks and Procedure for Deferred Payment, Payment in Instalments and Sale, Write-Off and Partial Write-Off of Claims to pay their debts in instalments. However, as this process is complicated and not conducted ex officio, but only upon the client's request, the AHCAA defines different rent levels depending on the level of development of the LGU. They may reach up to 20% of the amount of protected rent for apartments on the territory of the first group, compared to HRK 1 for family houses on the territory of the first and second group of the assisted areas.

In 2018, in accordance with the CSORHC Annual Plan of Controls, Services-Regional Offices Knin, Zadar, Petrinja and Vukovar carried out a total of 6940 field inspections of the legal use of housing units, a significant increase in relation to the year before, when only 1768 inspections were carried out. The inspections resulted in the issuance of 286 warnings, 78 beneficiaries had to return the housing unit to the CSORHC, while the process of eviction was stopped in 13 cases, since the irregularities had been rectified.

However, 586 beneficiaries still reside, based on acts issued by public authorities pursuant to the Act on the Amendments to the AASSC, in state-owned apartments or houses managed by the CSORHC, without the established right to housing care. Through the regional offices and ex officio, the CSORHC requested establishing it for 146 of those, with this planned to be done for the remaining 440 in 2019.

Difficulties arising from the impossibility to buy housing units on account of the procedure of condominium ownership division not having been carried out in buildings managed by the CSORHC, or due to other land registration disputes, were common in 2018. The CSORHC manages 201 apartment buildings where condominium ownership division has not been carried out, and 574 properties not regulated in the land registry, which will cause problems to beneficiaries wishing to buy them in the future. In this regard, we recommend that the procedures of condominium ownership division and regulating the land registry status of the properties managed by the CSORHC be expedited.

Urgent / extraordinary provision of housing

'The house we live in is very old, ramshackle and cold in winter. The roof is old and leaky, like the windows. The walls are thin and hard to warm up. The toilet is outside the house, which makes it very difficult to keep hygiene in winter. There is no heating in my daughter's room, so when she comes home she has to sleep in a cold room. The house is owned by my mothers, and neither me nor my daughter have any property. I implore you to help deal with the difficult situation in my life.'

With regard to the provision of housing outside priority lists pursuant to Article 19 (a) of the AASSC (urgent provision of housing), there is a good practice example of a complainant, a single mother of four and victim of domestic violence, who had lodged an application back in 2016 for urgent provision of housing through renting an apartment in the area of special state concern, on account of her difficult health and social situation, accompanied with a recommendation by the SWC. However, the CSORHC Commission for Urgent Provision of Housing assessed that her health and social status was insufficient for her to realise this right, and she was referred to lodge an application in regular procedure. After several appeals to such assessment by the Commission were made, the head of the CSORHC issued a decision rejecting them as unfounded, after which an administrative dispute was initiated. However, in 2018, she was suggested to withdraw her claim and lodge a new application, and which she was provided housing through renting an apartment in the area of special state concern. The fact that the AHCAA does not stipulate the option of providing urgent housing on account of difficult health and social situation lends this case even more weight.

A transitional provision of Article 53 of the AHCAA stipulates that all applications received prior to coming into effect of that Act shall be resolved pursuant to Article 46 of the AHCAA. According to this provision, the right to urgent housing care, now referred to as extraordinary, may only be realised on account of flood, fire, landslide, earthquake, explosion or other similar circumstances, as a result of which an individual or family loses the sole housing unit, in which they reside. According to statements by the CSORHC, the reason for regulating the institute of extraordinary housing care in such a way is that 99% of the applications have been lodged on account of difficult health and social situation, thus making urgent housing care a rule rather than an exception. Accordingly, retroactive application of Article 53 of the AHCAA has been suggested, and the Legislation Committee of the Croatian Parliament accepted this.

Given the time it takes to resolve applications for realising the right to housing care in regular procedure, through priority lists, and bearing in mind the very difficult health and social situation of many applicants, it is hardly surprising that the possibility provided by Article 19 (a) of the AASSC has been used to such extent. Pursuant to the AASSC, however, in place of this right, GMA beneficiaries who are also beneficiaries of the right to housing care, pay only HRK 1 a month for the rent.

Finally, we recommended to the CSORHC and first-instance bodies in our 2017 Report to allow clients realising the right to housing care outside priority lists to institute legal remedies against negative opinions of the Commission for urgent housing care, of which the first-instance body shall rule in a decision. As the AHCAA stipulates that rulings on applications for extraordinary housing care are made by the CSORHC state secretary, upon proposals made by the Commission, which clients may appeal, this recommendation has been implemented.

Regional housing programme

The project of Regional Housing Programme (RHP) continued in 2018, under which seven sub-projects have so far been granted to the RC, mainly financed through RHP Fund grants. Most sub-projects had been completed by the end of 2017, and the remaining four apartments under the sub-project HR4-Purchase of flats for 101 potential beneficiaries, were bought in 2018, marking its completion. In addition, the sub-project HR3-Reconstruction of the home for 75 elderly and disabled persons in Glina, has been completed, with 48 beneficiaries moving in, and the remaining 26 planned to move in 2019, and the sub-project HR5-Construction of a residential building in Benkovac, where 21 families have moved in. The only remaining unfinished sub-project is HR6-Renovation, reconstruction or construction of 62 family houses, under which 44 contracts were signed in 2018. In addition, 25 houses have been finished and handed over to beneficiaries, with the remaining 18 contracts expected to be signed, and the renovation/construction completed by September 2019.

Three new sub-projects were additionally approved at the Assembly of Donors in 2018. However, only one grant agreement was signed in late 2018, with the remaining two expected to be signed and adopted by the Government in 2019, and the completion of the works is planned in 2021.

Completing RHP sub-projects enabled providing housing care to beneficiaries of organised accommodation, so that the last organised accommodation facility closed down in 2018. All 23 beneficiaries have been provided permanent housing, 22 in the Glina home for the elderly and infirm, and one through his house being reconstructed.

Provision of housing to former protected tenancy holders

Former protected tenancy holders are mainly issued decisions on their exercise of the right to housing care at a satisfactory rate, including the provision of housing units, except outside the areas of special state concern, particularly on the coast and in big cities, where there has been a lack of available housing for some time, due to high prices and a shortage of properties.

Moreover, difficulties in the housing care of former protected tenancy holders, now mainly pensioners with modest income based on which they cannot get a loan, are caused by very unfavourable purchase conditions with high prices, even forcing some beneficiaries to return apartments. In addition, the processes of dividing condominium ownership in some residential buildings take a long time, for example in Knin, preventing the former protected tenancy holders from realising the right to purchase them. As stated in our previous reports, former protected tenancy holders should be acknowledged the fact that they had been making contributions to the common housing fund, and the prices for purchasing the apartments they use should be reduced accordingly, since they almost reach market prices in some parts of the country.

Recommendations:

39. To the Government of the RC and the Central State Office for Reconstruction and Housing Care, to ensure additional funds and housing units for beneficiaries provided housing through priority lists;
40. To the Central State Office for Reconstruction and Housing Care, to draft as soon as possible an act that would include a greater scope of housing care beneficiaries on the whole territory of the RC;
41. To the Central State Office for Reconstruction and Housing Care, to propose to the Government of the RC an amendment to the Act on Housing Care in Assisted Areas that would enable appealing to assessments by the Commission for the Assessment of the State of Housing Units, as was stipulated by Article 9 (6) of the Act on the Areas of Special State Concern;
42. To the Central State Office for Reconstruction and Housing Care, to offer, in case of problems in implementing decisions on the right to housing care through the model of renting out state-owned houses or flats in or outside some assisted areas, the possibility of exercising this right in another area or through another model;
43. To the Central State Office for Reconstruction and Housing Care, to propose to the Government of the RC an amendment to the Decision on the Write-Off of Claims for Rented Housing Units Owned or Managed by the RC, so that it is applied on the whole territory of the RC;

44. To the Central State Office for Reconstruction and Housing Care, to organise condominium ownership and resolve the land registry situation of state-owned real property it manages;
45. To the Central State Office for Reconstruction and Housing Care, to acknowledge the fact that former protected tenancy holders made contributions to the common housing fund, and reduce the prices for purchasing apartments they use accordingly.

3.5. CITIZENS' STATUS RIGHTS

„Although I have lived in Croatia since the age of seven (since 1984), I still do not have Croatian citizenship. Over time, my father had to change places of residence many times because of his job, and we spent the most time in Zagreb (we only changed the neighbourhoods). In the meantime, I could not obtain an extension of residence, or permanent residence, and I had to initiate an administrative procedure (the case is not resolved yet).“

Permanent residence

The Residence Act (RA) gives the police authority, ex officio, to issue a decision on de-registration if, by carrying out on-the-spot check, it has been established that a citizen does not actually live at the registered address. In our previous reports, we pointed out that such de-registrations were done although the factual situation had not been accurately established, causing considerable problems to citizens. For this reason, we recommended that the RA be amended in such a way that the criteria for assessing whether the person actually lives at the residence address are changed, and that objective circumstances why this is not possible be taken into account. However, this was not implemented. Thus, the only legal remedy against a MI decision on de-registering residence remains initiating an administrative dispute. Considering the level of legal costs, however, and the duration of judicial proceedings, citizens are reluctant to do it. In some cases with a high media profile, it was later established that de-registering residence ex officio had been done due to procedural errors, including on-the-spot checks by the police. That resulted in citizens being left with no registered permanent residence or ID in the period between the adoption of the erroneous decision and its correction, which denied them access to several rights that cannot be realised without it. The need therefore still exists to amend the RA to allow lodging appeals, as a legal remedy more accessible than the administrative dispute, and the Identity Document Act, to make filing a legal remedy against de-registering permanent residence ex officio, or not registering a new permanent residence, stay the termination of its validity until the act has become final, or issuing a temporary ID until the dispute has been finalised.

In last year's Report, we recommended that the MI should determine permanent residence of persons with no place or address of living, or the adequate means, solely based on the RA. Such

approach has also been taken by administrative case law (Administrative Court in Rijeka, 2 Usl-1056/2018-9), whereas the MI wrongly links regulating permanent residence of homeless persons to the SWC approval, in case it needs to be established at their address, erroneously referring to the definition of homeless persons from the SWA, instead of that from the RA. The court stated that, in interpreting legal standards stipulating the establishment of permanent residence of a homeless person, legal and factual consequences of rejecting such request with regard to the legal position and normal life of citizens, especially if there are no other possibilities to register permanent residence, should be taken into account, as such persons cannot obtain personal documents. The problem of homeless persons is discussed in more detail in the chapter on social welfare.

In several annual reports, we described the erroneous MI practice of rejecting the registration of permanent residence for citizens living in the RC, while at the same time allowing their registration of temporary residence, which is in contravention of the RA, as one can only have temporary residence with registered permanent residence. In its opinion about the 2015 Report, the Government declared such position as incorrect. However, in a new case from 2018, when we acted upon a complaint and pointed to the MI that temporary residence cannot be registered without permanent residence, as such position arises from the explanation of the final draft of the RA in 2012, the PA requested an opinion from the MI, which confirmed our position, as stressed in our 2015 Report.

Citizenship

The lengthy procedure of obtaining citizenship remains a major problem, especially when the application is submitted at a diplomatic mission, with applicants often for years having no idea whatsoever of the status of their cases. Those who have renounced their former citizenship find themselves in a particularly difficult situation, because, after they have provided proof of dismissal, they have to wait for a decision on obtaining the Croatian citizenship, during which time they have no identification documents, which causes problems in their everyday lives. Despite the position of the MI, which claims that urgent action is taken in such situations, and that there have been no instances of persons suffering harm due to their inaction, some applicants indeed had to send several urgency notes. Living without identification documents for several months must not be ignored, as such citizens are denied the possibility of employment during this period, for example, as well as social and health insurance rights, and the possibility to travel abroad.

In several previous reports, we stressed the problem of difficulties in obtaining citizenships by persons living in Croatia for decades, and their ancestors, back from before the time before the national independence was declared. The Constitutional Court provided its opinion about this in several decisions (e.g. U-III-4003/2005 from 2008), explicitly stating that 'the provisions of the Croatian Citizenship Act stipulating the conditions for the naturalisation of foreigners to Croatian citizenship must be appropriately interpreted in cases of admission to Croatian citizenship of persons who were citizens for the former SFRY, that being a legal situation with transitional elements.'

Unfortunately, numerous cases show that this is not taken into consideration, as there is no appropriate sensibility in deciding about such persons' status rights, especially when the family unity must be taken into account, which enjoys particular protection of the state, pursuant to the Constitution. The Constitutional Court also states that 'when the admission to Croatian citizenship is requested by a person who has been determined to be a foreigner following the breakup of the former federation, and who has permanent residence in the RC, along with their family, the question of their citizenship becomes an issue of human rights and their protection1'

In those cases where the citizenship of the former Socialist Republic of Croatia was not ascertained of formally confirmed, the MI insisted that the person who had spent all their life in the RC and never left it should first obtain the personal and travel documents of the country the citizen of which the MI considered them to be, for which they would have to leave the RC and separate from their families. Following that, they would have to renounce the citizenship of that country, and submit an application for obtaining Croatian citizenship. However, such procedure cannot be said to apply the Constitutional Court decision. In our 2015 Report, we reported the case of a Zagreb-born disabled Croatian war veteran who had several times unsuccessfully attempted to obtain Croatian citizenship, being rejected with a justification that he first had to regulate the citizenship of Bosnia and Herzegovina, as his parents had possessed the citizenship of that republic at the time of the SFRY. He lodged a repeated application for citizenship, on account of special interest for the RC, in June 2016, but the procedure has not been yet completed.

In stipulating conditions for facilitated admission into Croatian citizenship, account should be taken of persons one of whose parents is unambiguously an ethnic Croat, given the numerous examples of such persons identifying as Croats, yet this fact is not valued in the process of obtaining citizenship.

The case of Bedri Hoti, who has been living in Croatia for over 30 years without regulated citizenship, bears witness to the practice moving away from the position of the Constitutional Court, with the ECtHR judging in 2018 that his rights to respect for private and family life from the ECHR had been violated. The applicant, who had worked on the maintenance of Croatian Army and police vehicles early during the Homeland War, was given guarantees back in 1993 that he would be awarded Croatian citizenship, on account of meeting the condition of sufficient residence time in the RC, still did not manage to obtain it. His next application for citizenship was rejected, in contradiction to the previous one, because he did not meet the condition of sufficient residence time. That led him to suspect that the time of his permanent residence had been deleted from the records, following which he could not renew his personal documents, lost his job with no possibility for subsequent employment, was left without health insurance and other. More aspects of this judgement are presented in the next chapter.

In this context, in drafting the Amendments to the Croatian Citizenship Act (ACCA), which started in 2018, ECRI's suggestion that was stressed in several reports on Croatia should be taken into consideration, that all necessary measures should be taken to solve the problems related to

obtaining citizenship by those persons who are not ethnic Croats, but have lived in the RC for a long time. The fact is not contentious that ethnic Croats are allowed to obtain citizenship under more favourable conditions. However, there are no obstacles for providing such possibility to those with a strong connection to the RC, either, since they, as 'informal' members of national minorities, formally becoming that once they have obtained Croatian citizenship, are not included in the provision allowing a more favourable treatment in relation to any other foreigner. That would comply with the Third opinion of the Advisory Board of the Framework Convention for the Protection of National Minorities from 2010, which assessed the present regulations as unequal due to the treatment of persons who are not ethnic Croats, but still have a strong connection to the RC.

In stipulating conditions for facilitated admission into Croatian citizenship, account should be taken of persons one of whose parents is unambiguously an ethnic Croat, given the numerous examples of such persons identifying as Croats, yet this fact is not valued in the process of obtaining citizenship. Likewise, the possibility should be set down of obtaining citizenship for persons over 21 years of age who were born abroad, but one of whose parents was a Croatian citizen at the time of their birth, as they have not had such possibility, and may desire to be Croatian citizens.

Furthermore, there are cases that citizens of the former Socialist Republic of Croatia who were born in another republic of the SFRY were, contrary to the regulations then in force, registered as citizens of those republics, thereby being denied the right to Croatian citizenship as a result of the registrar's error. Conversely, the registrar's error in entering citizenship in the Croatian records cannot provide ground for obtaining Croatian citizenship. This way, legal inconsistency is promoted, as the registrar's error cannot serve as a ground for obtaining Croatian citizenship, whereas such error made by the registrar in another republic/state is valorised. In such cases, the principle should be promoted of legal continuity of citizenship, which cannot be terminated in any manner not defined by law, and the principle of exclusivity of Croatian citizenship, according to which the RC, in accordance with its regulations governing citizenship, determines whether a person is its citizen, not getting into any possible disputed citizenship relation between that person and another country.

Like two years ago, the draft ACCA sets forth that any decision on receiving Croatian citizenship through naturalisation may be revoked at any time, if obtained through a marriage of convenience or false identification or fraud, and shall be declared null and void, if the person who has obtained it has been convicted of crimes against the RC or against humanity and human dignity. It must be stressed that the APA already stipulates the possibility to review the procedure ex officio and with no time limitation, if the decision has been issued on the basis of a false document or is the result of a criminal offence, so that these proposals are not in compliance with the Public Administration Development Strategy 2015-2020, which states, as one of the fundamental postulates of the APA, its application in procedures in all administrative matters, which means that the APA is not a subsidiary regulation, and special acts must be aligned with it. By proposing such provisions, the competent bodies cannot be relieved of responsibility for the wrongly established factual situation and faults in the procedure of awarding citizenship. The possibility that citizenship was obtained

through a sham marriage, after that had been investigated several times during the process of granting residence and awarding citizenship, or as a result of false identification or fraud, in a procedure involving security vetting, indicates the liability of the competent body due to its failure to ascertain the factual situation and administer the process of awarding citizenship in a proper way.

Compliance of the proposal to declare a decision on awarding Croatian citizenship null and void, if the person who has obtained it has been convicted of crimes against the RC or against humanity and human dignity, with the Constitution, is questionable. The Constitution clearly states that Croatian citizens may not be deprived of citizenship, and that all are equal before the law. Adopting this proposal would create inequality, dividing citizens into those who have obtained citizenship on other grounds, for instance by birth, and cannot be deprived of it, and those who have obtained citizenship through naturalisation, which could be revoked, under legally questionable conditions. Besides, if a person has committed one of those crimes, the Criminal Code stipulates sanctions for that.

Residence of foreigners

We continue to receive complaints about the duration of procedures of granting residence, as well as rejecting the residence status of foreigners living in the RC for many years. The reasons for rejection are typically very poorly explained, which indicates that the principle of helping clients is not applied.

For example, a complainant who had been granted residence for seven years on account of being married to a Croatian citizen had his application rejected after the marriage ended. He was only granted a short-term stay of three months, even though he cares about his bedridden mother, who only has temporary residence. Taking into account the years of his regulated residence, the complainant could have lodged an application for permanent residence, of which he had not been informed by the MI, in keeping with the principle of helping clients. Likewise, given the health status of his mother, he had not been aware of the possibility of regulating his stay on humanitarian grounds due to the presence of particularly serious reasons for family reunification, since, in accordance with the exception to the FA, another relative may also be considered a member of the immediate family.

In another case, a father and daughter with temporary residence in the RC granted for humanitarian reasons since 2010, lodged a new application for its extension in April 2017. The MI issued a decision as late as in October 2018, granting residence by October 2019. However, the period between July 2017 and October 2018 was not included, which interrupted their continuous residence in the RC, preventing them from lodging an application for permanent residence. The clients fully complied with the FA provision specifying that an application for residence be submitted 60 days prior to the expiry of the current residence, while the MI failed to issue the decision on time, or explain why a residence period longer than one year was not included in it.

There are numerous instances pointing at the 'vicious circle' of humanitarian stays granted, especially those for justifiable reasons of humanitarian nature, where no funds are required to be ensured for sustenance and no health insurance regulated, due to which many live in this status for years, with no possibility to regulate permanent residence. Persons who have for years had residence granted on humanitarian reasons, mainly because they did not have the means to pay for sustenance or health insurance, cannot realistically be expected to meet the conditions for obtaining permanent residence. No alternative possibility for their obtaining permanent residence is set forth by the FA, and yet, it is persons who have been living in the RC for a long time who are often in such a situation, some even before the country's independence.

The explanation of the ECtHR judgement in the case of Hoti v. Croatia (2018), which we wrote about in the previous chapter, shows the meaninglessness of granting stays on account of serious justifiable reasons of humanitarian nature, as one can hold such status for a long period of time with no possibility to ever obtain permanent residence. In addition, such status is insecure in the RC, as it depends on one-year extensions of the stay for humanitarian reasons, which in turn depends on the submission of a valid travel document or discretionary approval of the MI. Analogously, in accordance with Constitutional Court decisions, in numerous cases of regulating temporary or permanent residence that have 'transitional elements', as procedures preceding the procedure of admission to Croatian citizenship, regulating one's status becomes the 'issue of human rights and their protection', and such procedures are evaluated accordingly.

The need remains to stipulate more precisely the circumstances and facts constituting a basis for the presence of security obstacles for the admission to Croatian citizenship and granting residence to foreigners, in order to eliminate arbitrariness in the procedure.

The ECtHR judgement in the case of Hoti v. Croatia also mentions the instance of 'deletion from the residence register'. The Government notified the ECtHR that there was no procedure of 'deleting' the citizens of the former SFRY with registered residence after the declaration of independence. However, as we pointed out in our 2015 Report, the instance of a person born in Zagreb, a disabled Croatian war veteran, shows that it was still possible for persons who had obtained the status of a foreigner with permanent residence by force of law in 1991, to lose that status in a legally questionable way. The 2003 FA specified that permanent residence of persons who have regulated permanent residence in accordance with the transitional provisions of the Act on the Movement and Residence of Foreigners from 1991 would be terminated in a period of one year (which was later extended by another year) if they have not 'regulated their status in the RC'. However, the concept of 'regulating one's status in the RC' is not legally defined. It is the position of the MI in this specific case that permanent residence in the RC has not been regulated if the person has not contacted the competent police authority or police station with an application for the issuance of a foreigner ID, in which case the status of a foreigner with permanent residence by force of law from 1991 would be lost. However, such interpretation is not legally based, since the concept of 'regulating one's status in the RC' is not defined in this way. On the contrary, the only sanction for

not submitting an application for the issuance of a foreigner ID is monetary fine. In this specific case, it was ascertained that the person had never been informed of the procedure of terminating permanent residence, and had never received such decision, although the temporary and permanent residence records showed that they had been 'deleted from the records' in 2005.

As regards citizens' complaints about negative decisions issued by the MI due to the presence of security concerns established by the SIA, despite other preconditions being met, the need remains to stipulate more precisely the circumstances and facts constituting a basis for the presence of security obstacles for the admission to Croatian citizenship and granting residence to foreigners, in order to eliminate arbitrariness in the procedure. In addition, the Constitutional Court set in its Decision U-III-2086/2016 from 2018 new, higher standards through judicial reviews of the legality of security vetting procedures, while fully respecting the right to contradictory judicial proceedings as a part of the right to fair trial, referring to the ECtHR position in the case of T.G. v. the RC (2017). In short, it is no longer enough for the administrative court to gain insight into the documentation used in the process of security vetting, but it must decide what evidence it will present to the party that has initiated the administrative dispute. If it decides not to present some or all of them, it must provide valid reasons for that and elaborate them in detail.

Although the court, pursuant to the Confidential Information Act, has access to the security vetting carried out, according to administrative case law, such as that by the Administrative Court in Split in Decision 15Usl-200/17-6, and the Administrative Court in Rijeka in Decision 2Usl-1401/16-13, for proper application of the principle of independence in ruling, and for free assessment of evidence in administrative procedure, certified persons from the MI must also have access to classified data, as it is legally deficient for the legality of a MI decision to be judicially reviewed, whereas MI employees were not aware of the reasons for the presence of security concern in issuing the decision in the first place.

Recommendations:

46. To the Ministry of the Interior, to draft a Bill of the Amendments to the Residence Act specifying the criteria for assessing whether a person actually lives at the address of their registered residence, and for assessing objective circumstances to be taken into account when a person is not able to live at the address of registered residence;
47. To the Ministry of the Interior, to draft a Bill of the Amendments to the Residence Act to allow appealing against ex officio decisions on de-registering residence, or not registering new residence;
48. To the Ministry of the Interior, to establish the residence of persons with no place or address of living, or adequate funds, exclusively pursuant to the Residence Act;
49. To the Ministry of the Interior, to draft Amendments to the Identity Document Act whereby instituting legal remedy against an ex officio decision on de-registering residence or not registering new residence would defer the expiration of the ID, or stipulate the issuance of a temporary ID until the dispute is resolved;

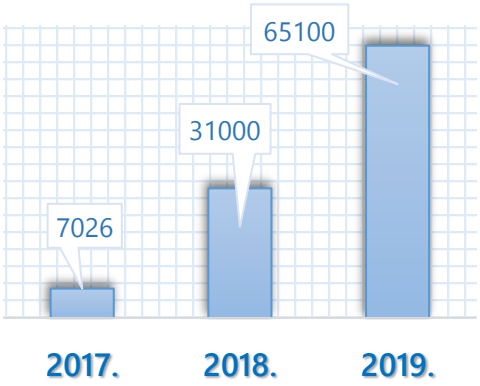
50. To the Ministry of the Interior, to carry out procedures for obtaining citizenship within deadlines stipulated by the General Administrative Procedure Act, especially when the applicants have renounced their previous citizenship;
51. To the Ministry of the Interior, to act in procedures of obtaining citizenship by persons who live in and have a strong connection to the RC by taking into account the position of the Constitutional Court that such situations have transitional elements;
52. To the Ministry of the Interior, to specify a preferential manner of obtaining citizenship for members of the national minorities listed in the Historical Foundations of the Croatian Constitution that have a strong connection to the RC;
53. To the Ministry of the Interior, to apply without reservations the principle of helping clients in the procedures of obtaining citizenship and granting residence to foreigners;
54. To the Government of the RC, to legally define, following public and expert consultation, which facts and circumstances constitute a basis for the presence of security threat to the admission to Croatian citizenship and granting residence to foreigners, in order to remove the arbitrariness of action.

3.6. EMPLOYMENT AND CIVIL SERVICE RELATIONS

'I'm asking you, how can an institution work like that? As much as I know, only in totalitarian regimes you can be denied the opportunity to work. If I wanted to find a job as a shop assistant while I'm waiting, and the CES found out about it, my application would be turned down anyway. What can a 25-year old live from in the RC? Mum's money only, as my basic human right to work is postponed and non-existent until the CES remembers to approve it, or they find an obstacle for the employer, or announce another job competition that will fall through after the employer has selected the person. This is why people are leaving, at a time when everyone is fighting for demography. Not because they want, but because they have to.'

Citizens continued to leave the RC in 2018, listing the following as the reasons, according to a survey by the Croatian Employers' Association: a poorly organised and badly run country, hopelessness and a lack of perspective for the future, failure to introduce changes, employing obedient party members and nepotism, crime and corruption, religious intolerance and nationalism, with small salaries stated in only 5.2% of the cases. This is confirmed by the Eurostat data, which show that the share of Croatian workers aged 20-64 living and working in other EU member states has increased from 12.2% to 14% in the last 10 years, with the average on the EU level being 3.8%.

NUMBER OF PERMITS FOR EMPLOYING FOREIGNERS ISSUED



Employers react to the emigration of the working-age population, resulting in a shortage of adequate workforce, by asking the Government of the RC to issue more work permits for foreigners, particularly in the construction sector, shipbuilding, metal industries, transportation, tourism and the hospitality industry. The gravity of the situation is exemplified by the increase of the work permits for foreigners granted, from 7026 in 2017 to over 31,000 in 2018, and as many as 65,100 in 2019, with even 44% of the permits planned for the construction sector, tourism and the hospitality industry.

Although the growing dissatisfaction with the conditions of work, intensified by the emigration of the working-age population, coupled with the obvious workforce shortage, should result in positive changes in the approach of employers to workers, the number of complaints, inquiries and petitions received on the same level as in the previous years, indicate that, more often than not, this is not so.

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Private and public sector employees continue to contact us on account of violations of the employment rights, which increasingly include harassment at work, emphasising extremely deteriorated interpersonal relations which hinder the carrying out of their daily tasks, and adversely affect working conditions. However, due to inadequate legislation, to which we have been pointing for many years, employers still do not pay enough attention to this aspect of work relations, despite the protection of workers' dignity being one of their fundamental legal obligations, whether it may be threatened or violated by actions of the superiors, colleagues, or other persons the worker regularly comes into contact in carrying out their work. Appropriate and efficient protection of dignity, as well as prevention of stress at the workplace, to an extent and in the manner that this is possible, ensure working conditions that do not threaten the workers' health and safety, while also contributing to the well-being of the entire working collective.

3.6.1. RIGHTS DURING UNEMPLOYMENT

„Could you please explain to me who, according to your criteria, belongs to the category of 'hard-to-employ' persons'? I don't get it that I, as a person who has been in the unemployed register for over a year (including a 20-day interruption working as a replacement – which job I found through an acquaintance, not the CES), sending tens of job applications and CVs a month, even though I don't even get a reply to 90% of the applications I send, a person who gets no job announcements from CES employment counsellors (not one in a year), as there are simply none for my profession and I am not qualified for most job announcements, how do I, as a person who has been invited for a job interview only 3 times (out of which 3 times, I was given the job twice, but the CES refuses to employ me!?), not belong to the category of 'hard-to-employ' person?"

Trends in the numbers of unemployed persons continued to be one of the closely followed topics in the public arena in 2018. Unlike the previous years, the average unemployment rate finally dropped below 10%, with 148,919 unemployed persons registered by the CES at the end of December 2018, or even 20.5% less than in December 2017. Though encouraging and certainly promising, however, the drop in the number of the registered unemployed does not only result from employment. Thus, 174,420 (65.8%) persons were removed from the CES records due to finding employment, which includes other work-related activities, such as occupational training without commencing employment, while as many as 90,533 (34.2%) were deleted for other reasons, such as not abiding by the legal obligations or exiting the workforce. At the same time, 11.4% fewer persons were employed in relation to 2017. In the EC Report for the RC 2019, the persistent low population activity and employment rate (71.2% in 2017, compared to the EU level of 78%) was highlighted, which makes the realisation of a series of European Pillar of Social Rights principles challenging. It is these challenges, according to the EC assessment, that require investments prioritising, inter alia, the improvement of access to employment for all job seekers, and good planning of the skills demanded on the labour market.

The most common reasons why the unemployed complained to us included problems in exercising the right to unemployment benefit, lengthy decision making processes in appellate proceedings, lack of understanding and poor cooperation with employment counsellors, as well as desire to change them, questioning the justification of the CES imposing obligations on the unemployed (regular reporting, participating in workshops and alike), problems related to the implementation of active employment policies, but also referring the unemployed to those employers who, according to publicly available data, do not pay their workers.

Exercising the right to unemployment benefit remains difficult, or even denied, to those unemployed who, while meeting all other requirements, could not enclose evidence of the termination of employment (most commonly termination of the work contract) to the application for financial benefit, as they did not have it, through no fault of their own. Referring to Article 47 of the APA, the CES issued a conclusion calling on them to provide evidence within a defined period, with a warning, however, that their applications would otherwise be rejected. They were instructed to obtain such evidence with the help of the competent institutions and, should such procedure indeed be initiated, the administrative procedure before the CES would be frozen until the circumstances of the termination of employment have been established. As such procedures are typically long-lasting, and often produce no satisfactory results, the provision of adequate social security to the unemployed would then be totally lacking.

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For instance, a complainant had been de-registered from mandatory pension and health insurance before the expiry of a fixed-term work contract, without him knowing it and with no valid legal grounds, after which the employer became unavailable not only to the complainant, whose salaries had not been paid for a few previous months, but also to the CES and the Labour Inspectorate. The Labour Inspectorate could not get in contact with the employer's responsible persons, and could not get their employment-related documentation, on account of which criminal charges were brought. The Inspectorate notified the CES that the complainant's salaries had not been paid and that his work contract had been terminated with no notice of dismissal explained in writing, because of which it could not be delivered to him, despite that being the employer's legal obligation. Even so, the CES issued a decision rejecting the complainant's application for unemployment benefit. That way, they failed to assess the cause and importance of lacking evidence, particularly in situations where other, circumstantial evidence is present based on which a conclusion can be reached about how employment had been terminated, such as a report on inspection carried out, which the CES is authorised to do pursuant to Article 47 (4) of the APA, to which they refer anyway. In this regard, the Constitutional Court took a position in its 2016 Decision U-III-5989/2013 that the competent bodies are obliged to interpret and apply applicable law, in all situations and with no exceptions, in light of specific circumstances of each particular case, as unreasonable interpretation and formalist application of regulations, with regard to effects they produce, are not permissible in a legal order based on the rule of law and protection of human rights.

Actions taken by the CES were also questioned in situations when unemployed persons managed to realise their right to unemployment benefit, yet in amounts smaller than they thought they were entitled to. Persons who, for any reason and period of time, had a period of temporary incapacity for work in the course of the three-month period preceding the termination of employment, were in a particularly disadvantageous position. This is because the basis for defining the amount of

unemployment benefit is calculated as an average of the gross salaries received during the three-month period preceding the termination of employment, but not including any salary-related benefits or other monetary subsidies received in accordance with special regulations. Thus, in defining the basis for calculating the amount of unemployment benefit, the average gross salary of a particular month is not taken into account if even a single day sick-leave was used in that month, and only those months are taken into account in which the unemployed person received no salary-related benefits. If such three-month period cannot be established, the basis for defining the amount of unemployment benefit applied is the minimum wage, rather than actual salary, depending on the percentage of time spent working. Although the goal of both the legislation and mentioned CES practice was to avoid putting persons who had received salary-related benefits in the three-month period before the termination of (self-)employment in a disadvantageous position in relation to those who had received salary in that period, this was not always so in reality, as temporary incapacity for work, along with a lower salary, sometimes also resulted in a lower amount of unemployment benefit. We pointed at this problem to the MLPS during the e-consultation on the Labour Market Act, in force since 1 January 2019, which replaced the Act on Job Placement and Unemployment Insurance. However, though the provisions setting forth the manner of establishing the basis for calculating unemployment benefit are defined more precisely, to remove the possibility of different interpretations, they remained basically the same, so such problems can be expected in the future, too.

The goal of the legislation and CES practice was to avoid putting persons who had received salary-related benefits in the three-month period before the termination of (self-)employment in a disadvantageous position in relation to those who had received salary in that period. However, temporary incapacity for work, along with a lower salary, sometimes also resulted in a lower amount of unemployment benefit.

In early 2018, nine new active employment policy measures were adopted, covering a relatively large number of beneficiaries (36,935 newly-included). Out of the total number of persons who completed the measures last year, as many as 96.59% were employed (57.07% by the same employer), but not long-term, as the percentage dropped to 59.47% by the end of the year. However, the EC Report for the RC 2019 still problematises the efficiency of these measures, especially in relation to vulnerable groups in the labour market, pointing at under-utilisation of some of the measures, such as requalification or professional training, as well as possible deficiencies in defining target groups.

Although the conditions and manner of use of funds for the implementation of active employment policies for 2018 do not define the elements, besides the basic requirements, taken into consideration in evaluating each individual application, which was a recommendation from the 2017 Report, positive steps are reflected in the consistency and transparency of assessment, and considerably fewer complaints about these circumstances.

The adoption of two new measures (subsidising employment for gaining first work experience/apprenticeship, and training for gaining appropriate work experience (30+), which, along with professional training without commencing employment, have enabled the unemployed to gain first work experience, significantly reduced the number of complaints pointing at violations of the right to work due to inability to complete mandatory apprenticeship. Additionally, employers, including state authorities, are beginning to seek apprentices for employment again, regardless of the active employment policies. Still, notwithstanding these seemingly positive developments, there are still relatively many beneficiaries (5885) included in the professional training measure, mostly those with a university degree, and MLPS data continue to show considerable interest and inquiries with regard to participating in this measure.

Following employment subsidies, the most newly-included active employment policy beneficiaries were covered in 2018 by self-employment subsidies, (17.6%), which were used by 6485 unemployed persons. Based on on-the-spot inspections, deployment of this measure was assessed as positive in as many as 90.2% of the cases, with only 1% of the contracts terminated. Although this procedure does not indicate a systematic problem, certain situations in which beneficiaries of the self-employment subsidies contacted us, whose contracts had been terminated on the initiative of the CES, show that there is a lot of room for improvement in concluding, executing and terminating these contracts. Therefore, the recommendation to the CES to duly check the execution of contract obligations in line with approved requests to use active employment policies, and to provide appropriate advisory support to both the persons included in the policies and their employers, and to implement activities related to terminating contracts and returning unpaid funds in a timely and appropriate manner, can be considered only partially implemented.

There is no dispute that self-employment subsidies are not a social measure, and that the execution of contracts should be subject to multiple checks, including whether the funds have been spent in line with their purpose. Available data also indicate that beneficiaries often fail to meet their obligations in the specified or contracted manner, or within binding deadlines. However, this is a specific type of contracts which the CES signs with persons who see enterprise as a way of exiting unemployment, and have previously met a series of requirements, so that their role should not only be repressive, but also intermediary, supportive and advisory, in order to keep the contracts in effect to allow the self-employed to remain that. In cases when the CES believes that some of the contract obligations have not been met, but they are not clearly and unambiguously defined, and there are differences in terms of their interpretation, such as, for instance, what is considered as documentation acceptable as proof of the funds spent, the CES should attempt to resolve them amicably, while interpreting the vague provisions in favour

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of the other contract party, pursuant to Article 320 of the COA. Besides, amicable resolution should not only include returning the funds paid in instalments, but also looking for ways of meeting contract obligations, and keeping the contract in effect. Contract termination and initiating an enforcement procedure should be the final option. To avoid it, the beneficiary's obligations should be defined more clearly even at the time of contract conclusion, especially those in the execution of which common problems have been identified.

3.6.2. EMPLOYMENT RELATIONS IN PUBLIC SERVICES

„Dear Madam, I've been working as a nurse in hospital on a fixed-term contract since 12 January 2015, without interruptions. It's been more than 3 years that I've been employed on such a contract. Do I have the right to permanent employment?"

Complaints in this area, often anonymous, pointed at irregularities in carrying out employment procedures relating to nepotism, trading in influence and abuse of position and authority, irregularities in hiring trainees without commencing employment and in procedures of appointing and relieving directors of duty, concluding fixed-term work contracts, unlawful overtime work, irregularities in terminations of work contracts, in paying salaries, but also abuse at work by directors and/or other employees. Citizens also sought help and mediation with commissions competent for interpreting particular provisions of collective agreements pertaining to the reimbursement of travel expenses, Christmas bonus, annual holiday benefit or anniversary award.

In several complaints, employees voiced their dissatisfaction with the work of persons appointed by the employer to receive and resolve complaints to protect the dignity of employees, stressing that those persons did not enjoy their trust, being partial and acting in the interest of the employer. In such cases, employees can only protect themselves from harassment, or preserve their dignity, through legal and criminal proceedings. However, in one instance the appointed person has been 'accused' of violating the Act on the Implementation of the General Data Protection Regulation, as she had disclosed the complainant's personal data without her authorisation. Therefore, we instructed the complainant to contact the Personal Data Protection Agency, as the competent authority.

However, investigations carried out show that employers, though obliged to adopt ordinances specifying, inter alia, the procedures and measures for protecting the dignity of employees, do so only formally, since such ordinances describe the procedure for filing a complaint only generally (most frequently, literally copied from Article 134 of the LA), and do not define

A surge of violent behaviour by patients and their family members in concerning, so that a new criminal offence was introduced in the Criminal Code in 2018, the 'use of force against a health care worker', with a stipulated prison sentence of six month to five years.

specific measures that can be taken to stop harassment. Specifying the procedure in advance, in a clear way, and defining the measures corresponding to the gravity of the violation, are the key preconditions for carrying out effective processes of protecting employees' dignity, which is why employers should identify them in more detail.

Complaints pointing at irregularities related to lay-offs were mostly submitted by employees in health care, pre-school and school institutions, who cited long-term abuse at work before being laid off, not only by directors and principals, but also other employees. In several such institutions, interpersonal relations were ruined to such extent that they affected pre-school and school children, as well as health care patients, while the competent bodies within the institutions failed to act, properly or not at all, to prevent the disturbance of interpersonal relations, including all its consequences.

Health care institutions also recorded a worrying trend of the rise of violence by patients and their family members against employees. In this regard, drafting of the Amendments to the Criminal Code started in 2018, introducing the new criminal offence of 'use of force against a health care worker', with a stipulated prison sentence of six months to five years. However, the criminal law regulation pertaining to applying force against workers in other sectors should also be considered, as the issue of protecting not only dignity, but also the personal safety and physical integrity of educational staff interacting with students' parents, was being raised more often in 2018, as well the issue of protecting employees in the social welfare sector from beneficiaries, and staff in the pharmaceutical profession from patients.

However, amendments to the criminal legislation can hardly be sufficient. Instead, systematic work on the prevention and training of employees in non-violent resolution of conflicts in the workplace is necessary, as well as improving communication of health care workers with patients. According to Croatian Medical Union (CMU) data, employees in all medical institutions have experienced some form of violence, most commonly verbal, by patients and/or persons accompanying them, with an increase of the number of physical attacks on doctors and other medical workers the most concerning. Although medical institutions have the services for quality assessment and accreditation tasked with monitoring the occurrences of violence against health care workers, given the obligation to report all undesirable events, including violence, many verbal attacks go unreported. Together with other medical and nursing associations, the CMU has sent to the Government of the RC draft measures aimed at increasing workplace safety, requesting the introduction of a 24-hour presence of security services in medical institutions, and video surveillance on locations where attacks have been the most common. Stricter control of entries and visits to health care institutions was also proposed, as well as other measures.

As many as 89% of nurses have experienced verbal of physical violence in the workplace, yet only 37% reported it, most often to the employer, police. trade union, CNS, and/or the court, and 95% of them said that physical protection and safety in medical institutions were not on an adequate level.

The Croatian Nursing Council (CNS) carried out a survey focusing on violence against nurses in May 2018, which showed that as many as 89% of them had experienced verbal of physical violence in the workplace, yet only 37% reported it, most often to the employer (93%), police (16%), trade union (3%), CNS (1%) and/or the court (2%). As many as 63% of them did not report violence, of which 61% because they did not want any more problems, 15% feared unwanted reactions in their environment, 7% were afraid of being assaulted again, and 34% for other reasons. Nurses are most frequently attacked by patients (77%) or persons accompanying them. Even 95% of them said that physical protection and safety in medical institutions were not on an adequate level.

One of the reasons for a growing dissatisfaction in the public services, especially in the education and health sectors, is the Decision on the Ban of Employing New Public Servants and Employees in the Public Services, while, at the same time, real workforce needs are present in these sectors. In the context of significant emigration of qualified professionals, physicians in particular, soon after they have obtained the corresponding level of education, this Decision should be reconsidered.

We write in more detail about the problem of concluding fixed-term work contracts in the chapter of employment relations in the economy and crafts. However, the unions and public sector employees have been pointing out that abuses in concluding fixed-term work contracts are common in public institutions, especially in the education sector. According to data by the Independent Trade Union of Workers in Secondary Education in the RC, one of the examples is concluding fixed-term contracts until the beginning of summer holidays, and then again after the beginning of the new school year. As the gap in employment is longer than two months, the continuity of the longest allowed duration of fixed-term contracts is thus interrupted. However, although the duration of contracts does not exceed the legally stipulated limit, the legal basis for their conclusion is questionable, to which the school inspection should pay more attention.

Employees who contacted us asking for the interpretation of particular provisions of collective agreements with regard to the reimbursement of travel expenses, Christmas bonus, annual holiday benefit or anniversary award, were instructed to contact the commissions competent for interpreting such agreements. About 90% of the inquiries (1400) to the Joint Commission for Interpreting the Basic Collective Agreement for Public Servants and Employees in Public Services were related to the reimbursement of travel expenses, so that it is not realistic to expect the Commission to reply to inquiries within the 30-day deadline, as stipulated by its Rules of Procedure.

3.6.3. CIVIL SERVICE RELATIONS

"Could you please react to a case in the Ministry of Public Administration, in which the country prefect employed a secretary of his choice, even though the job competition is yet to be announced. He's making fools of us, while my daughter languishes in the unemployed register and sends pointless applications."

The Amendments to the Civil Servants Act (CSA) and the Regulation on the Organisation and Manner of Work of the Civil Service Board adopted in 2017 which, inter alia, limited the Board's competences and created preconditions for strengthening its human capacities, after it began acting in full composition in early April 2018, have contributed to a noticeable drop in the total number of received cases in relation to the previous years, with the number of unresolved cases almost cut by half. Additionally, given that the Regulation specifies priority cases (admissions, terminations, mobility), these are resolved, on average, within a month from the receipt of a valid appeal. However, due to backlogs, a large number of cases are still undergoing resolution, and civil servants, though dissatisfied with lengthy procedures, have filed only 147 disputes against the Board on account of 'administrative silence'.

According to data by the Board, the Amendments to the CSA pertaining to public vacancy competitions for admission to civil service accelerated procedures before first-instance bodies in 2018, thereby reducing the number of appeals and complaints, largely through delivering decisions by public announcements on the web-sites of public authorities and the MPA.

However, a new e-consultation was organised in late 2018 on the occasion of adopting the Act on the Amendments to the CSA, which, in contravention of the Act on the Right of Access to Information, lasted only 15 instead of 30 days, and the MPA did not include an explanation of the reasons and goals to be achieved, for which reason the Information Commissioner unsuccessfully reacted as well. During the consultation, for reasons of transparency and greater accessibility of the admission plan to the public, we suggested that the provision be retained according to which the plan must be announced not only in the Official Gazette and the MPA website, but also in a newspaper sold on the entire territory of the RC, which was however not accepted. Also, with regard to the right of persons undergoing professional training without commencing employment to take the civil service examination, the original idea was to not allow such persons to take the civil service examination after they have completed professional training, although they had earlier been allowed to do that. Such provision would put them in a disadvantageous position in relation to apprentices, who, pursuant to the LA, have the obligation to take the civil service examination only after they have completed apprenticeship. However, following our suggestion, the idea was rejected to reduce the traineeship period from 12 to 6 months.

The complaints pointed at irregularities in employment following job announcements/competitions, often linked to the criminal offence of corruption, unlawful decisions on job assignments and transfers, abuse at the workplace, wrongdoings in rating civil servants, as well as duration of the procedures of resolving appeals for the protection of dignity before the MD Committee for the Protection of Dignity of Military Personnel. We instructed the complainants expressing justifiable doubts about the commission of criminal offences of corruption to contact competent criminal authorities, and pointed others wishing to protect their rights within legal deadlines to judicial or the competences of the Civil Service Board.

According to data by the Board, the most common reason for annulling first-instance decisions related to civil service relations remains their lack of explanation pursuant to Article 98 (5) of the APA. It is precisely due to a lack of concrete and objective reasons for issued decisions involving assignment, transfer and rating that civil servants contacted us. By not taking account of preparing valid explanations as an integral part of decisions, first-instance bodies continue to deny civil servants the right to effective legal remedy. In annulling such decisions and returning cases to repeated procedure, the Board also provides clear and specific instructions for further action, yet some ministries systematically ignore them in repeated procedures, which leads to subsequent annulments and long-term processes resulting in the impossibility to enforce them.

Unlike the previous years, police officers contacted us significantly less in 2018, mainly on account of not being granted transfer they requested due to family-related circumstances. The limited number of vacant positions results in difficulties regarding the reconciliation of professional and family life, the most pronounced in the cases of officers who, after completing school, had been assigned to police administrations and stations in Dalmatia, even though they had residence in Slavonia. In keeping with the recommendation to draft amendments to the Police Act that will expressly state the maximum duration of the performance of tasks of another post following an order in writing by the immediate superior, the MI has notified us that the disputed provision of the PA would be removed entirely.

3.6.4. EMPLOYMENT RELATIONS IN THE PRIVATE SECTOR AND CRAFTS

'Could you please provide some information, as I'm completely ignorant in this area. I've been working on the coast for the season. Most people have been tricked. One thing was promised, and the reality is something else. Are there still persons or organisations that care about the TRUTH, and about people as human beings!? Or is everything corrupt, hushed up, and linked to politics and party orientation. Please, give me a good answer or tell where to find one.'

'I am contacting you due to problems occurring at the workplace, amounting to human rights violations. My mother has been working for some time in a company where employees are treated in a dismissive way, and no one can stay for long because of the mobbing they are subjected to. It's not only about my mother, numerous other men and women have no one to talk to. They are slighted in many ways, laws are violated, they work without days-off, and their salaries are reduced at will. Allegedly, in case someone has parked their car in a wrong place, they take 20% off their salary. The latest case involved some employees who had a mobile phone while working, were not actually using it, but only had it by themselves. They were told that 10% would be taken off their salaries. To make matters worse, the company put together a statement on behalf of the employees and asked them to sign it. Since my mother was on a sick-leave at the time, she did not agree to signing it, but they had written it on her behalf, and it was completely different compared to what really happened. Through a phone call, she was told that 10% would be taken off her salary anyway, and that they would sign it in her stead. Shocked with this, and the manner of operations of the company, we did not know what to do, as we simply had no choice. We knew they would certainly do as they wanted.
Unfortunately, my mother's health has deteriorated because of her work, particularly with regard to the stress she experiences there.'.

Despite significant changes in the labour market and workforce shortage, the complaints, inquiries and petitions from workers employed in the private sector did not point at a considerable improvement of working conditions, remaining mainly related to unlawful lay-offs and other irregularities regarding the termination of employment, failure to pay salaries and other benefits, non-delivery of the calculation of owed and unpaid salaries and benefits, unregistered work, mobbing, and unlawful and unpaid overtime work. Numerous workers remain completely unaware of the mechanisms for protecting their rights, particularly those who are not union members for fearing, as they themselves claim, adverse consequences, as unions could offer them legal and other assistance. Trying to avoid typically long and financial and psychologically exhausting legal proceedings, they had the biggest expectations from the Labour Inspectorate, wrongly believing that this institution has the competences to stop unlawful dismissals, order the payment of salaries, including for overtime work, or protect them from harassment.

Like before, workers employed by companies that had entered into administration or were trying to reach pre-bankruptcy settlement were in a particularly precarious situation, finding it difficult or impossible to realise their employment-related rights. Those working for employers who used various changes in their status, or acted through related companies trying to facilitate and simplify their business operations, while masterly managing to avoid meeting their workers' financial obligations, found themselves in a similar situation. In one instance, the workers of a once highly respectable and successful construction company have for years been unsuccessfully trying to get their salaries and severance pays. Firstly, a pre-bankruptcy settlement procedure was initiated for the company, which was reached after almost four years, and the bankruptcy was avoided through the company's merger with another company, solely established by the same employer, during the pre-bankruptcy settlement procedure. However, the newly-established company soon had its bank account frozen, too, which prevented the workers from receiving due salaries, due to numerous cessions, compensations and alike, the workers claim, because of which the company's revenues could not be paid to its bank account.

Due to the existence of reasonable suspicion of the commission of criminal offences against employment relations and social security benefits, labour inspectors filed 166 criminal charges, of which 122 for failure to pay salaries, and 44 for violating social security rights.

Although inspections found somewhat fewer cases of workers who had not even been paid a minimum salary by their employers in relation to 2017, a considerable number of them still cannot exercise this fundamental employment right. Due to the existence of reasonable suspicion of the commission of criminal offences against employment relations and social security benefits, labour inspectors filed 166 criminal charges, of which 122 for failure to pay salaries, and 44 for violating social security rights. In addition, the Labour Inspectorate issued 7106 decisions on ensuring temporary payments in those cases of unpaid due salaries or benefits where the employers even failed to meet their obligations from the Act on the Protection of Workers' Claims.

Over 85% of persons who were removed from CES records after finding employment signed fixed-term work contracts, whereas, according to CPII data, on average, as many as 25.44% of employees were employed on fixed-term work contracts.

Many workers have fixed-term work contracts, often concluded against the law, while employers patently exploit this institute. Although they are aware of this and dissatisfied with their insecure employment status, workers put up with it, hoping to be offered permanent work contracts if they prove they deserve it through their work and efforts. However, fixed-term work contracts are legally defined as exceptions, making the announced targeted inspections by the Labour Inspectorate, in accordance with the recommendation from the 2017 Report, more than justified. Indeed, over 85% of persons who were removed from CES records after finding employment signed fixed-term work contracts, whereas, according to CPII data, on average, as many as 25.44% of employees were employed on fixed-term work contracts in 2018. As noted in the 2019 EC Report for the RC, despite a rise in the number of permanent work contracts, the share of fixed-term employees in the total population

remains significantly above the EU average (17.5% in relation to 11.3%). One of the principles of the European Pillar of Social Rights is secure and adaptable employment, thereby encouraging a shift to permanent employment and preventing employment relationships with precarious working conditions, including a prohibition of non-standard contracts.

Companies established by the RC or LRGUs, including those of strategic national interest, also conclude many fixed-term work contracts for jobs where the need exists for permanent work, which points to another possible abuse of this institute. According to data by the Independent Union 'Social Justice', as many as 17% of the workers are employed on fixed-term contracts in one such company, 35.4% of whom perform some of the company's core activities.

Indeed, it was the companies established by the RC or LRGUs and those of strategic national interest that were frequently the subject of citizens' complaints due to suspected irregularities in employment. Based on the mistaken perception that employees of those companies have the same legal status as civil servants or LRGU employees, and that their salaries are provided from the state budget, citizens complained of employment with no public competitions held, and of no transparency in the selection of candidates. However, unlike admissions to public or LRGU service, such companies do not have a legal obligation to announce public competitions, conduct tests/interviews with candidates, pass decisions, or notify candidates of the results of competition procedures, which may have been held. In these cases, the employer freely decides on how the process of recruitment and selection of employees will be carried out, which, due to the specific status of these companies, leads to citizens' dissatisfaction and raises doubt that some candidates are favoured.

3.6.5. INSPECTION SERVICES

"I reported an employer I had worked for for a month without being paid. I submitted my report to the Inspectorate on 26 October 2017, after which they did not reply to me. On 15 December 2017, I sent an email requesting information about the case, but no reply arrived again. Several weeks later, I forwarded the same email to various state authorities, and it was only then that I received a reply saying that I would be notified of the outcome, as the procedures was still ongoing."

Complaints regarding the work of inspection services remain predominantly focused on the duration of proceedings conducted by competent bodies following workers' petitions. However, inspectors are often accused of ineffectiveness and failure to take the measures that the complainants, not being sufficiently aware of their legal competences, think they ought to take. The proceedings could be shortened not only by ensuring an adequate number of inspectors, and their education and

qualifications, but also by providing adequate salaries and an appropriate system of employee reward and recognition.

We pointed out at lengthy procedures carried out by MPA administrative inspectors, and the small number of immediate inspections conducted, in our 2016 and 2017 Reports. However, we are expecting that, by enforcing the 2018 Administrative Inspection Act, combined with filling the positions of administrative inspectors, re-organisation and education, the situation will improve. Pursuant to this Act, administrative inspection is organised not only at the MI as state administrative inspection, but also in state administration offices and the counties, and its scope of work is extended to include conducting inspection of LRGU bodies and legal persons with public authority. Expected positive effects include getting administrative inspectors closer to the subjects of inspection, reduced costs, more frequent and comprehensive inspections, and a better quality or work of the subjects of inspection. Presently, the positions of administrative inspectors are filled in ten offices, and it remains to be seen in 2019 how these competences will be implemented in practice.

We consider the adoption of the State Inspectorate Act as particularly important, given that its implementation should lead to consolidating 17 inspection services and contribute to greater efficiency and more uniformity in the actions of over 1400 inspectors. In the course of e-consultation, our suggestions were accepted that inspectors should be obliged to immediately notify the competent body as soon as they suspect any irregularity, and not only after they have established a violation of a law or other regulation, and that the coming in force of the SIA should be postponed given the large number of inspectors to be transferred to the State Inspectorate, which requires more time to ensure the adequate conditions. However, our suggestion was not accepted that inspectors should only carry out inspections without prior announcements, as citizens often stress the ineffectiveness of inspections that have been announced in advance.

The number of complaints against school inspectors continued to decrease in 2018. In addition, in relation to 2017, data by the MSE on the results of appellate procedures against decisions by school inspectors show that the number of annulled decisions has seen a significant decrease, from 36.5% in 2017 to 15.5% in 2018. This, along with the fact that, out of the total of 420 decisions, appeals were only lodged against 10.7% of them, and that two new inspectors were employed, shows that their work has improved, with better decisions, which is in line with our recommendation from the 2017 Report.

Recommendations:

55. To the Croatian Employment Service, to value all evidence collected in deciding on requests for monetary benefits during unemployment, taking account of the circumstances of each case, and applying the law in such a way that would not threaten the social security of citizens during unemployment;
56. To the Croatian Employment Service, to provide, when concluding contracts on co-financing self-employment, all information about the consequences of concluding such contracts,

especially with regard to defining more clearly and in more detail the obligations of the beneficiary, particularly those frequently leading to disputes; and to initiate activities related to contract termination only after all other execution possibilities have been exhausted;

57. To the Ministry of Labour and Pension System, to consider the need to amend the Labour Market Act with regard to the basis for determining the amount of unemployment benefit for persons who had received salary-related benefits in the three-month period preceding the termination of employment.
58. To the Ministry of Health, to propose, in collaboration with the Croatian Employers' Union and professional chambers, additional measures and activities aimed at ensuring adequate working conditions and preventing violence against health care workers;
59. To the Government of the RC, to reconsider the Decision banning new employments of civil servants and Government employees in public services, taking account of the actual employment needs;
60. To the School Inspection, to carry out targeted inspections of the legality of concluding fixed-term work contracts in educational institutions.

3.7. DISCRIMINATION IN THE AREA OF LABOUR AND EMPLOYMENT

The emigration of a large number of working-age citizens abroad in the course of 2018 brought about changes in the labour market and caused a higher demand for workers, especially those with some expert qualifications. However, despite the often highlighted problem of workforce shortage, citizens contacted us because of deterioration of their employment status and disturbance of working atmosphere, as well as discrimination. Those employed in the private sector stressed age-based discrimination and union membership more often, while political conviction as a reason for disadvantageous treatment was cited more often in discrimination-related complaints in the public and state sector. However, we also received complaints of discrimination at work and during the recruitment process on other grounds, irrespective of the employer. Given the changes in the labour market, the more pronounced fear of victimisation by workers is surprising, due to which some still hesitate to activate the available legal instruments to protect their rights.

Victimisation

'Please keep my personal information anonymous, and if you consider it necessary to contact my employer, I'd like to be informed about that in advance, so I can think about it. It wouldn't be good if your questions led to suspicion that it was me who got you involved. That could put me into an even more difficult situation.'

Although the number of complaints of discrimination is continuously growing, with many related to the area of labour and employment, this does not show its actual extent. This is evidenced by the concerning phenomenon of growing fear by workers of employers sanctioning them if they try to protect their rights, which is why they only do it when the termination of employment is imminent. For this reason, to present the occurrences of discrimination in this area, along with data from the complaints to the Ombudswoman, data by the unions, CSOs and the Labour Inspectorate were used, as citizens addressed them as well.

The fear of victimisation was underlined in both the cases of seeking judicial protection, and filing complaints to the Ombudsman or reports to the Inspectorate. Therefore, workers often address the competent institutions anonymously or ask for their identity not to be disclosed, lest their employment status worsen. Some even do not address the commissioner for the protection of dignity, probably due to fears that their identity would be revealed, and due to distrusting them as persons appointed by the employer, sometimes seen as their extended arm. Not reporting discrimination therefore does not mean absence of discriminatory conduct.

Some employers also failed to ensure appropriate internal protection from discrimination, as confirmed by the information that labour inspectors have in less than two years issued 17 verbal orders on appointing persons authorised to receive and resolve workers' dignity-related complaints, as well as 30 verbal orders on adopting and announcing ordinances regulating work or organising all legally regulated issues, including the protection of workers' dignity.

Workers who did not file complaints, but possessed relevant information about those working for the same employer who did, also insisted on remaining anonymous. In our previous reports we have written about workers' fears to testify against their employers in lawsuits, and this phenomenon is becoming more widespread even during our actions. Data provided by some unions show workers' fears to be well justified, as they are often assigned additional work or reprimanded for each mistake they make at work, in a clear message from the employer as to what kind of behaviour they consider acceptable.

Members of the workers' councils, as well as union representatives, must feel objectively and subjectively sufficiently protected to undisturbedly fulfil their task of representing workers and protecting their rights.

However, it is most alarming when, out of fear of victimisation, workers who are members of the workers' councils hesitate to take action against an employer who they consider as discriminatory or violating workers' rights in some other way. Indeed, it is members of the workers' councils who, as union representatives, must feel objectively and subjectively sufficiently protected to undisturbedly fulfil their task of representing workers and protecting their rights. Although putting members of the workers' councils in a more disadvantageous position that other workers is not allowed, in some cases they do not feel protected, which could have far-reaching negative consequences for all workers.

On the other hand, legal proceedings due to victimisation pursuant to the ADA are very rare, and workers need to be better informed, to reinforce their position, about the legal framework of victimisation, for this form of discrimination to be recognised, reported, adequately processed and sanctioned.

Discrimination in the area of labour

„After spending so many years in the company, working at weekends and making sacrifices, the employer now wants to give me the sack. I don't meet the conditions for full-age retirement yet, no one will hire me and, to add insult to injury, I will be punished by being forced into early retirement with a smaller pension for the rest of my life, compared to one I'd receive if I'd stayed employed."

The CES registered 20.5% fewer unemployed persons in 2018 in relation to 2017, and demand for workers by employers has increased. In its Report on Croatia 2019, the EC also noted a shortage of workforce, despite the still relatively high percentage of unemployed persons, standing at 148,919 in December 2018, according to the CES records. Although such changes in the labour market could have been expected to have a positive effect on the categories of workers who had often been subjected to discrimination in the previous years, primarily those aged 50 and above (workers 50+), that did not happen. Some changes were indeed noted in the way certain employers planned to terminate employment contracts with undesirable workers, as they tried to bring them round to accept a consensual termination of work contracts, which made discriminatory conduct harder to identify.

While comprehensive pension reform extends the working age and rewards those staying longer in the labour market, some employers still consider older-age workers as less desirable workforce, and terminate their employment just before they are about to fulfil the conditions for regular age retirement.

In relation to workers from other age groups, workers 50+ are discharged more frequently when companies are undergoing a restructuring, some positions are made redundant, or the number of employees is reduced. Some complainants mentioned a long-lasting pressure to terminate work contracts consensually, or upon their own request, which limits the legal options to challenge decisions on the termination of employment. However, working in such atmosphere for several months would have had a very demotivating effect on some of them, upsetting them and adversely affecting their health situation, on account of which some accepted the suggested modality of terminating employment. Due to employers' pressures inducing older workers to early retirement, workers contacted not only us, but also the Labour Inspectorate, unions and CSOs, which shows the extent of such practice. Additionally, they claimed that they were not motivated by early retirement measures, wanted to work, had commendable work performance, and there was demand for their

jobs, but the employer still decided to terminate their work contracts. Such decisions are sometimes motivated by reducing business costs, and sometimes by a desire to change the structure of employees in order to have younger staff. Although terminations of work contracts, expectedly, are traumatic for all age groups, it is workers 50+ who are often affected by long-term detrimental effects, due to their poor employability, which keeps them longer in the CES records. Therefore, those workers who meet the conditions for early age retirement often see this as an existential solution. However, it entails smaller pensions, which makes them feel punished twice – firstly, by having had their employment terminated, and secondly, by a much smaller pension than they would have had if they had remained employed until they met the conditions for full-age retirement, which was not really so much for some. As the pension reform stipulates the penalisation of early retirement by 0.34% for each month, irrespective of the number of years spent working, such secondary sanctioning of workers 50+, who enter the CES unemployment records against their own will, is bound to continue.

Thus, while comprehensive pension reform extends the working age and rewards those staying longer in the labour market, some employers still consider older-age workers as less desirable, and terminate their employment just before they are about to fulfil the conditions for regular age retirement. No cases have been noted, in companies undergoing reconstruction, of employers sending workers to re-qualification or other kind of training to help them find new jobs, as some unions warned. On the other hand, the desire of workers 50+ to remain employed is evidenced by the number of those included in active employment policies, though there are no significant steps forward in their employment.

Acting upon complaints by workers 50+ due to their discrimination at work, we regularly suggest to employers to carry out transparent selection procedures when creating collective lists of redundant workers, to remove any doubts that discriminatory criteria may be applied. However, as workers normally submit complaints only after the procedures of work contract terminations have already begun, a more systematic approach would contribute to combating discrimination of workers 50+ more efficiently, such as the unions' proposal to sanction those employers who encourage or coerce workers into early retirement.

Along with discrimination related to the termination of work contracts, workers also complained about being treated in a disadvantageous way when realising other employment rights. Following complaints by workers from a group of employers, some have, depending on their age, been denied severance pays during a company restructuring. Unlike those who have the possibility to sign new work contracts, or accept dismissal and exercise the right to severance pay, this right is denied to workers who have less than a year and a half before meeting the criteria for regular age retirement, as a result of employer committing to not terminate their employment based on business-related reasons.

Although the employer stressed the intention of protecting older employees from being laid off during company restructuring, with regard to their disadvantageous position in the labour market,

that does not provide them with a choice of a more favourable financial option. Though often inevitable, reorganisation of work is not necessarily acceptable to every worker, for a series of subjective and objective reasons, because of which everyone should be given the opportunity to decide on extending or terminating their employment, with equal financial effects. We do welcome any additional protection of older-age workers, but it should be done in such a way as to avoid putting them, even accidentally, in a less favourable position in relation to other workers.

Union membership represents another discrimination ground cited more frequently in the labour area. Although the right to free decision on union membership is one of the fundamental rights of workers, some employers remain averse to unions. Along with complaints to us and the trade unions, this is evidenced by the misdemeanour procedure cases filed with the Labour Inspectorate on suspicion that the employer attempted or managed to achieve unlawful supervision over the establishment or actions taken by a trade union, or that they failed to ensure conditions for the work of a workers' council.

Although employers, to survive on the market, must primarily take account of business results, the relationship between workers' satisfaction and their productivity is sometimes insufficiently recognised, in which the role of trade unions is particularly important. Despite this, workers continue to complain that they are hounded for their union membership, assigned greater workload, paid smaller salaries irrespective of the quantity and quality of the work done, treated more harshly for their mistakes, or the employer's practice in terms of unacceptable conduct of workers is changed, with union commissioners exposed in particular. In additions, the unions stress that unfavourable treatment of their members is more conspicuous in smaller branches with few members, who are more exposed to discrimination.

The importance of the right to union association particularly comes to the fore when workers strive to protect their rights within legal deadlines, but do not have the means to pay a lawyer and do not meet the income census to receive FLA. The union is often the only help in such situations for judicial protection of workers' rights.

Discrimination in the area of employment

In 2018, citizens complained of employers who openly applied discriminatory criteria in the recruitment process, and those who requested information unrelated to job tasks, thereby causing not only discomfort in the complainants, but also suspicion of discrimination.

The complaints against applying discriminatory criteria in job advertisements mostly focused on the tourist and hospitality industry, where younger female persons were often required for the jobs of receptionists, room maids or waitresses, often with a mandatory photograph enclosed. The most common discriminatory criteria were age, gender, and financial status, which is covered in more detail in a separate chapter. We regularly warned employers of suspected age-based discrimination, and pointed at the need to define a business policy which would not put job candidates in a

disadvantageous position, since, for instance, the age limit of 30 or 35 years does not represent an actual and decisive condition for the performance of tasks of a receptionist, room maid or waitress, but such employment is rather a result of stereotypical thinking that younger persons would perform the job and understand clients' needs more easily. Employment based on the candidate's appearance on a photograph is potentially discriminatory on several different grounds, since the photographs show the age, race or religious conviction, thus opening a path to disadvantageous treatment, or the selection of candidates based on some of the characteristics mentioned.

When acting upon complaints against employers who requested candidates to provide information that is clearly unrelated to the job advertised, it was important to determine whether the characteristics related to any of the discrimination grounds represented an actual and decisive condition for the performance of such jobs. In this context, asking for information about national origin or housing status certainly cannot be related to jobs at tourist agencies and tour operators, or to packaging. Even if the employer did not use this information in the selection process, their very collection leaves room for doubt that they could be used during employment. Therefore, we recommended removing such questions from the questionnaires since, along with suspected discrimination, they also represented a violation of the right to privacy.

During the investigative procedure, the employers stressed that they had had no intention to discriminate against any candidates, and that they were not aware of the anti-discrimination legislation. Although not being aware of the law can serve as no excuse to anyone, with intention not being an important element of the civil law form of discrimination, the fact is indicative that many private employers are not aware of the legal prohibition of discrimination. For this reason, we keep informing employers about the normative framework and the obligation of non-discriminatory conduct in the area of labour and employment, while also suggesting conducting discrimination-related training to other relevant stakeholders.

Notwithstanding the complaints about various cases of discrimination against workers and its under-reporting, this is still not an omnipresent phenomenon, and many employers do have a clear understanding of protecting their employees' rights. In our last year's Report, we stressed the 'Diversity Charter Croatia' as a document signed by 34 companies and organisations in 2017, pledging themselves to implementing the policies of diversity and non-discrimination. In 2018, we witnessed some positive business results by some of the Charter's signatories, who, along with implementing the worker loyalty policy and the campaign of equality of candidates in employment, also achieved outstanding business results and greater turnover. Such examples of workers' satisfaction linked to their productivity and successful business results should serve as a model for building employers' business culture in the future.

To achieve that, along with informing workers about discrimination, it is necessary to conduct continuous training of all profiles of employers aimed at reducing accidental disadvantageous treatment of workers to a minimum, as well as horizontal discrimination, which is the employer's

responsibility, too. Therefore, we recommended to all relevant stakeholders in our 2017 Report to conduct continuous training on discrimination in the area of labour and employment, and we still insist on it, as the most efficient prevention of future discrimination

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Discrimination of state and civil servants

'Since his coming to power, any municipality employees not obedient to the mayor have been subjected to mobbing and constant harassment, and threatened by being fired, all because they belong to other political parties active in the municipality. People live in fear due to their convictions, as the mayor would not let any party apart from his own to exist in this municipality.'

Similar to previous years, civil servants and LRGU employees contacted us on account of suspected discrimination on grounds of ethnic or national origin, political or other belief, health status, education and social position. Their complaints mostly reported various types of discriminatory conduct by superiors over longer periods of time, culminating in their positions being made redundant with the adoption of new ordinances on internal organisation or amending the existing ones. Although adopting new job systematisation is in certain cases justified by a rationalisation of business operations, or the need for more efficient and cheaper administration, in cases of entire organisational units of particular positions being merged or scrapped, such processes inevitably lead to those workers who could not be assigned to new positions being made redundant. For this reason, we have for a number of years been pointing at the need to establish effective control of the purpose of reorganising such bodies. When the number of jobs is cut, the decision on employee's redundancy should contain a detailed and well-reasoned explanation providing the reasons for selecting workers of similar qualifications and job descriptions. In such situations, advantage in job assignment should be given to the employees with better work performance and efficiency. The new Regulation on Rating Civil Servants and Government Employees should therefore improve the rating system, in order to for measurable criteria to be applied and arbitrariness and discriminatory conduct by senior officials avoided, even more so given the new package of normative solutions being adopted, linking civil servants' salaries and advancement to the rates that are supposed to reflect the quality of their work and professionalism.

According to complaints, belonging to a particular political option is a condition for employment, not only for positions of officials, but also civil servants, while in many state and LRGU bodies work reorganisation is often used as a disguise to eliminate workers considered to be of different political views or even apolitical.

Civil servants often cite their political conviction as a ground for discrimination, on account of which they are treated in a disadvantageous way, stressing that employment and advancement in different LRGU administrative bodies is commonly tied to party membership criteria. This problem is

particularly pronounced in communities where work colleagues are members of political parties, or are publicly known to be close to a particular political option, which happens to be the one held by the heads of those bodies. The complainants maintain that belonging to a particular political option is a condition for employment, not only for positions of officials, but also civil servants. Most believe that working environment in many state administration and LGU bodies is strongly characterised by retributions against colleagues with different political preferences, and that work reorganisation is often used as a disguise to eliminate workers considered to be of different political views or even apolitical.

We also receive complaints by civil servants, as well as those in LRGUs and the public services, about harassment and abuse at the workplace, mainly by the superiors, but sometimes also colleagues, which points at unlawful and unprofessional behaviour at the workplace. It is not uncommon in such cases for reports made by the workers and employers to be entirely contradictory, and accompanied with documentation which makes it impossible to unambiguously establish a causal relationship between some of the discrimination grounds and the conduct reported. However, it is concerning that intolerance and permanently disturbed interpersonal and professional relations are present in such working environments, causing unsettling atmosphere and hindering the normal performance of everyday working tasks. In some cases, we recommended to the superiors to make additional efforts to ensure a working environment based on respect and professional relationship between colleagues, and to protect the dignity of all workers, thereby contributing not only to the body's successful work, but also improving its relationship with its users, the citizens.

Trade unions have warned of potentially discriminatory effects of the Extended Pension Insurance Act, according to which workers with smaller salaries, and those whose unions or employers do not have enough funds, will be in a disadvantageous position in defining jobs and professions with accelerated retirement. Defining such jobs is to be carried out following proposals by employers or unions, based on expert documentation produced in accordance with special regulations, while the costs of its producing are to be covered by the entity proposing it. Workers whose unions do not have the financial means for submitting such proposals will be in a particularly bad position, with employers not particularly keen to finance such expert documentation, even less so given that such workers are normally employed on difficult jobs involving hazards to health and work capacity.

Finally, we acted in 2018 upon complaints due to systematic unequal treatment of certain categories or workers in their exercise of employment-related rights, which can only be changed through legislative amendments. One of the cases involved unequal treatment of candidates when assessment was made as to whether they met the conditions to take the bar examination. Pursuant to the Act to Legal Trainees and the Bar Examination (ALTBA), and the present practice of assessing whether conditions are met for taking the bar examination, we have established the unequal treatment of legal professionals who have changed the type of work they have carried out before the exam, for which a different duration and content of legal traineeship is defined. As they were not recognised the traineeship period before the change of practice, we have recommended

establishing criteria based on which the time spent carrying out all types of legal operations would be recalculated, in order to harmonise the criteria for taking the bar examination for all candidates, which the MJ is planning to regulate through ALTBA implementation regulations.

In addition, the Civil Servants Act stipulated the right of civil servants with a PhD or MA academic title obtained in an area related to the tasks of the public authority to be relieved from the obligation of taking the special part of the state qualifying exam, while civil servants employed by LRGUs do not have that right. To remove such inequality, we recommended an amendment of the legislative framework regulating the criteria for taking state qualifying exam for civil servants and LRGU employees.

Recommendations:

61. To the Croatian Employment Service, to continue training stakeholders in the labour market, employers in particular, on discrimination in employment procedures and the workplace, with an emphasis on victimisation;
62. To trade unions, to continue training union commissioners on the application of the Croatian and European anti-discrimination law in the area of labour and employment, and carry out activities aimed at raising the awareness of workers and employers about victimisation as a form of discrimination;
63. To the Croatian Employers' Association, to provide regular workshops, as part of professional training of its members, on the application of the Croatian and European anti-discrimination law, particularly with regard to victimisation in the field of labour and employment;
64. To the Croatian Chamber of Trades and Crafts, to provide regular workshops, as part of professional training of its members, on the application of the Croatian and European anti-discrimination law, particularly with regard to victimisation in the field of labour and employment;
65. To the State Inspectorate, to regularly train labour inspectors on the application of the Croatian and European anti-discrimination law, particularly with regard to victimisation in the field of labour and employment;
66. To local and regional self-government units, to organise training for the staff employed by legal persons owned or established by them on discrimination at the workplace or the field of labour and employment.

3.8. RETIRED PERSONS AND THE ELDERLY

3.8.1. SOCIAL SECURITY OF ELDERLY PERSONS

„...I also need to tell you that I am surviving on 1200 kunas of pension, that I am not healthy, don't have access to medication, store etc... I don't have wood for heating, the level of hygiene is bad, I have been boiling water since 2014 as it isn't good even for bathing, I have nowhere to sleep – the house is in a dilapidated condition...“

According to the Eurostat data for 2017, 19.6% of the population of the RC is aged 65 or more, and only 14.5% of the population is younger than 14. Such rapid ageing of the population represents a challenge to long-term planning of care for the elderly, and the creation of public policies. The strategy of social welfare for the elderly in the RC for the period 2017-2020 should ensure the preconditions for the improved quality of life, but addressing problems has been postponed for years.

According to the latest CBS data, the rate of poverty risk in 2017 was the highest, standing at 28.6%, for persons older than 65, which is two percentage points higher than in 2016, and it is alarming that as many as 47.8% of the elderly who live alone face a risk of poverty. According to Eurostat data, 26% of elderly persons live at a risk of poverty, compared to the 14.4% EU average. This implies that the measures currently implemented are not well targeted and do not provide results. The CBS' initial estimate shows the GDP grew by 2.3% in the forth quarter of 2018 compared to the same period in 2017, which is in contradiction with the growth of the rate of poverty risk for elderly persons.

Having this in mind, along with the Eurostat data that only 64% of the Croatian population over the age of 65 receives pension, which puts us at the bottom of the EU, along with Spain, the introduction of a national pension as envisaged by the Strategy would represent an important step providing a number of elderly persons living in poverty with a life in dignity, which was also a recommendation in our previous reports. However, the Institute of Public Finance published the Analysis of parameters governing social care, pension system and labour market conditions, based on which the MLPS concluded that the "project of introducing a national pension is a complex topic as it deals with introducing a new protective social institute, especially having in mind the positioning of the minimal pension in the existing social care pension systems, and its influence on them". As other data are not available, and the Government claims the national pension is to be introduced in 2020, such a statement is discouraging and raises doubt whether the national pension would indeed be introduced.

The report on the implementation of the Strategy shows that all the activities planned for 2017 have been implemented. These activities are mostly project-related and deal with the development of the services aimed at keeping elderly persons in their homes. Nevertheless, most systematic measures, such as the introduction of the status of caretaker for elderly persons, national pensions, harmonisation of the models of the financing of the homes for elderly persons and a more efficient control system, have been left for the last year of implementation.

The GMA for elderly household members should be raised, and a lower census should encompass a larger number of elderly persons, particularly those at a risk of poverty and the deprived ones, raising their quality of life and adding to their social inclusion.

Social benefits that elderly persons most rely on are the assistance and care benefit, guaranteed minimum allowance (GMA), personal disability benefit and one-off benefits. The most commonly used social services include institutional care and assistance at home, provided by various providers. According to data from the MDFYSP, only 8192 elderly persons were beneficiaries of the GMA as of 31 December 2017, which represents 9.65% of the total number of beneficiaries, while 43,266 persons benefited from the assistance and care benefit, which represents 64% of the total number of beneficiaries. Although a number of elderly persons have an income significantly below the poverty risk threshold, the strict revenue census (HRK 920.00 for an elderly person living alone), the majority is not eligible for the GMA, which leads to additional problems, since other benefits, such as accommodation allowance, compensation to vulnerable energy consumers and heating allowance. Nevertheless, despite the fact the 2017 Report stated that the amount of GMA for elderly household members should be raised to protect them from the risk of poverty and social exclusion, this problem persists and possible change following the adoption of the SWA would depend on the resources from the state budget.

In accordance with the recommendation from the 2016 Report to increase the amount of the assistance and care allowance that had not been modified for a number of years, and is mostly used by elderly persons, this was done as of 1 April 2018, when the full amount was increased from HRK 500 to 600, and the reduced amount from HRK 350 to 420. The personal disability allowance was also raised, from HRK 1250 to 1500, which somewhat improved the material conditions of elderly persons who cannot fulfil their needs without the assistance of somebody else.

The at-home assistance service is a social service, defined as a right in the social care system; it is provided through catering, performing house chores, providing help with personal hygiene and meeting other daily needs in the user's home. It is provided by a decision of a SWC, as part of the Network of Social Services, according to the rules of humanitarian or charitable organisations, or pursuant to a contract concluded with the provider. The Network established a need for 11,513 beneficiaries, yet this service has been recognised by a decision of a SWC for only 4218 persons, which represents just 0.5% of the elderly population. This information, along with the one on the poverty risk rate, along with the limited reach of institutional care, implies that assistance at home is obviously insufficient. Nevertheless, the recognition of this right by a decision of a SWC is, inter alia, linked with the elderly persons' income, so despite the recommendation from numerous reports to lower the threshold, which is now HRK 1500 per member of household, and to make it available in all parts of the RC, it has not happened yet, despite multiple amendments to the SWA.

The MDFYSP concluded a contract on the provision of assistance at home with 175 assistance providers; the poorest-covered county is the Međimurje County (two assistance providers and 17 beneficiaries), and the best is the Šibenik-Knin County (eight assistance providers and 463 beneficiaries). The MDFYSP should add contents to the Network of Social Services in a way that

enables a balanced provision of services across counties, while meeting the needs of elderly persons; since the Network was established in 2014, the budget for the implementation of services should be planned in a way that would enable a swift filling of the Network by concluding contracts with service providers, instead of depending on resources that should be, but are not, provided. Providing this extra-institutional service to as many elderly persons reduces the pressure on the homes for the elderly and other providers of accommodation, and the SWA states that the social welfare centres primarily recognise the beneficiaries' right to social services in the family, and only exceptionally and if the Network of extra-institutional services is not developed, recognises the right to accommodation.

Instead of that, assistance, support and care for elderly persons in remote and rural areas, and the islands, was tackled by the programme Zaželi (Make a Wish), mentioned in the chapter on discrimination based on material status. Since assistance at home represents a legal right and is not identical to this programme activity, the programme Make a Wish cannot replace the needs determined in the Network, particularly given its 30-month span and questionable sustainability. Nevertheless, since as part of our field visits we visited elderly persons living in houses with dirt floors, without electricity and with water accessible only from wells or even streams, geriatric nurses (home assistants for the elderly) available through the programme Make a Wish are often their only available service, and based on available data, 6512 persons have been targeted through 57 contracts on assistance, support and care for elderly persons concluded with local governments and non-profit organisations.

Assistance at home provided based on decisions of SWCs by the Red Cross, Caritas or other providers of social services or through the programme Made a Wish or other programmes, still does not satisfy the needs of elderly persons for assistance at home, particularly in the case of persons living in remote or isolated areas of the RC.

According to the Croatian Red Cross data, their 53 associations provide assistance at home to 6776 beneficiaries based on decisions issued by a SWC or through the programme Make a Wish, out of which only 481 pay for the service. They also plead for a lower revenue threshold, and for a higher number of approved activities per beneficiary.

Assistance at home, provided based on decisions of SWCs by the Red Cross, Caritas or other providers of social services or through the programme Make a Wish or other programmes, still does not satisfy the needs of elderly persons for assistance at home, particularly in the case of persons living in remote or isolated areas of the RC. Besides assistance at home, elderly persons should be provided with other activities to improve their participation and organise their spare time. Senior centres that operate in the decentralised homes of the City of Zagreb and in other communities have been pointed out in our earlier reports as examples of best practice; they provide daily accommodation and assistance at home, but also the delivery of meals, the possibility to rent orthopaedic equipment, advisory services as well as counselling and various workshops.

The new SWA should by all means stipulate a wide variety of social services for elderly persons, which would enable them to remain with their families as long as possible.

Extra-institutional care is provided in the form of 62 projects aimed at organised daily activities, involving 11,694 elderly persons, covering all counties except for the Primorje-Gorski Kotar County and the City of Zagreb; and is financed by the MDFYSP. The objective of the project is to ensure the conditions to include elderly persons in the life of the community, and avoid their institutionalisation, while improving their living conditions by organising daily activities adjusted to their needs and interests, such as sports and recreation; creative, educational and information, and cultural and entertainment activities. In 2017, the MDFYSP financed projects aimed at reducing and preventing social exclusion of elderly persons by financing their transport, for example to the doctor. 19 projects in nine counties were financed in this way, involving 2323 persons. As project activities are of questionable sustainability, they cannot be used as a substitute for the legally prescribed social services.

For example, additional resources should be earmarked for residence, which is a legal right, and it should be made more accessible, as it is currently used by only 81 persons, which is only 2.4% of the beneficiaries of this service, along persons with disability, children and others. The residence for elderly persons should therefore be included in the Network of Social Services in a way that reflect the real needs of elderly persons, which would create the preconditions to recognise it by a social care centre decision.

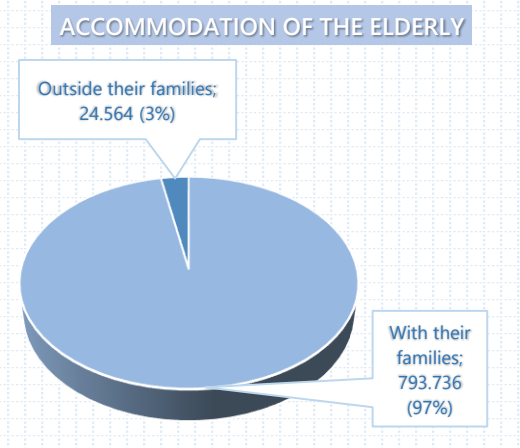
The new SWA should by all means stipulate a wide variety of social services for elderly persons, which would enable them to remain with their families for as long as possible.

Homes for the elderly and other entities providing accommodations to the elderly

793,736, or 97%, of elderly persons live with their families, and only 24,564, or 3% have accommodation outside their families. Beside foster families and family homes, as places where extra-institutional care is provided, long-term accommodation of elderly persons and institutionalised care are provided by homes for elderly persons and other entities.

According to data by the MDFYSP, there were 142 homes for elderly persons in the RC in 2017; 2 state-owned, 45 decentralised and 95 private ones, with 17,392 beds, out of which 10,967 in decentralised and state-owned homes. There were 16,553 beneficiaries at the homes, 10,905 of which in decentralised and state-owned homes. 3814 persons expressed interest for accommodation. Private homes could provide 6425 places, and there were 237 persons who expressed interest.

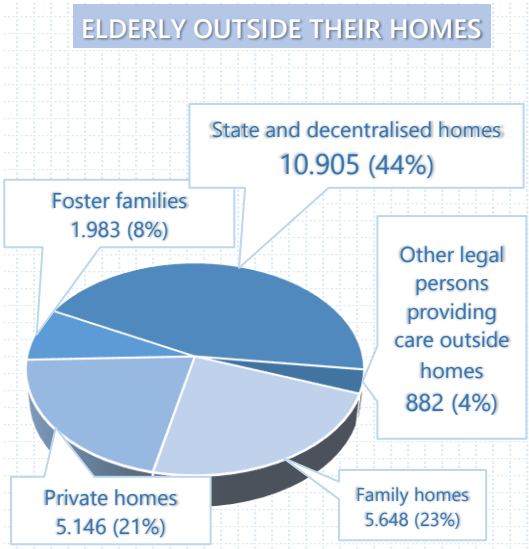
78 beneficiaries were placed at homes for elderly persons based on decisions of SWCs, while 90 were placed at homes based on contracts. 1891 beneficiaries were in decentralised homes based on decisions of SWCs, and 8970 based on contracts. 679 beneficiaries were in private homes based on decisions of SWCs, and 4969 based on contracts.



These data show that a majority of elderly persons regulate their accommodation in homes through contracts, and a minority by decisions of SWCs – mostly in decentralised homes for which there is the most interest. Apart from the 45 decentralised homes, the MDFYSP concluded contracts with additional 106 service providers for elderly persons that have been established by other founding entities, which partially filled the Network of Social Services.

Persons with greater means choose private homes that offer a higher standard, while underprivileged persons opt for less equipped private homes, especially if they require urgent accommodation due to deteriorating health. As a rule, they simultaneously apply for places in both state-owned and decentralised homes, and unfortunately wait for accommodation for a number of years.

Tackling the problem of the non-transparent waiting lists, non-harmonised criteria for admission and prices in homes (co)-financed by the state or county budgets has been postponed for a number of years, although analyses of the operation of decentralised homes for which the MDFYSP was to report to the Government in line with the transitional provisions of the 2013 SWA, had been produced. As was the case in previous years, despite our recommendation to create criteria for the urgent accommodation of beneficiaries in homes co-financed from the budget, there has been no improvement, and the problem of waiting lists remains, due to affordable prices and the high quality of accommodation.



Inspections performed over the work of state-owned and decentralised homes shows that most anomalies relate to inconsistencies between legal acts, internal structure that does not meet the specified criteria and frequent cases of homes that do not have a decision confirming they meet minimal criteria. Apart from that, there are too few nurses, physical therapists and care workers, and the scope of services is below the prescribed minimum, for example in terms of bathing patients and cleaning their rooms. Irregularities have been established in the procedure of admission to homes, keeping records and registers, and problems have been noted in terms of deteriorated premises and equipment. Irregularities are similar in private homes and are connected with the form of ownership

of the premises and equipment, a lack of internal control, failure to adopt plans and programmes of work and the failure to keep a record of meals. A shortage of nurses, physical therapists and care workers has been established, as well as accommodating more beneficiaries than the established capacity, and not conducting free-time activities with the beneficiaries.

Of the ten other entities that provide accommodation services (companies and crafts), irregularities were not identified in only one, and all others had irregular registries and documentation, more users than the established capacity, had a shortage of nurses and care givers or staff did not meet the required criteria. The premises were unkempt, hygiene unsatisfactory, and they did not have the required documentation for work.

Naturally, the inspection control was not conducted in all the service providers mentioned, but mostly focused on the homes, regardless of their founder, and control had not been conducted in 20 of them before. Preconditions therefore need to be created to perform regular inspection over all social services providers and a continuous education and supervision of professional staff is to be conducted.

Family homes and foster families

„I have to work, and my mother has dementia. There is nobody to take care of her for 24 hours. There are no free places in state-owned homes, and I don't have money for a private home. I don't know what to do.“

Accommodation is provided to elderly citizens in family homes and foster families as extra-institutional care. A family home provides accommodation to between five and 20 adult users, and services are provided by one adult family member or family home representative who may employ other workers. Services in a family home cannot be provided by a person who is single, and the family home representative should in principle live in the same premises with the users, and only exceptionally in a different house, if it is located in the same yard, and needs to provide users with 24/7 care, all days of the year. On the other hand, foster families provide services of accommodation to up to four adult users, and only exceptionally more, in case of urgent or occasional foster care.

Prema podatcima MDOMSP, 31. prosinca 2017. na području RH djelovao je 361 obiteljski dom za starije osobe, s ukupnim kapacitetom za 5.843 korisnika, a smještenih je bilo 5.146. Najviše obiteljskih domova je u Zagrebačkoj županiji (54), pa Karlovačkoj (33), Gradu Zagrebu (32) i Osječko-baranjskoj županiji (31). MDOMSP je sklopilo ugovore o pružanju smještajnih usluga za 317 korisnika s 61 obiteljskim domom za starije osobe, što znači da ih je čak 300 izvan Mreže socijalnih usluga. Stoga je u obiteljskim domovima smješteno preko 90% korisnika temeljem ugovora o smještaju, a samo manji dio temeljem rješenja CZSS, dok od vrste usluge dominiraju one II. i III. stupnja. U isto vrijeme, registrirano je 1.528 udomiteljskih obitelji za odrasle i starije osobe, u koje ih je bilo smješteno 4.412, od toga 1.983 starijih, najviše polupokretnih i nepokretnih.

According to MDFYSP data, 361 family homes for elderly persons with the overall capacity for 5843 users and 5146 actual users were active in the RC as of 31 December 2017. Most family homes are in the Zagreb County (54), followed by the Karlovac County (33), the City of Zagreb (32) and the Osijek-Baranja County (31). The MDFYSP concluded accommodation contracts with 317 users and 61 family homes for elderly persons, which means that as many as 300 are outside of the Network of social services Over 90% of users are therefore in homes based on accommodation contracts, and just a minority based on decisions by SWCs; in terms of services, those of 2nd and 3rd column dominate. Simultaneously, 1528 foster families for adults and elderly persons are registered, accommodating 4412 persons, out which 1983 are elderly persons, mostly partially mobile or bed-ridden.

121 instances of inspection control of providers of accommodation services for elderly persons were conducted in 2018, or 16.5% more than in 2017. It is not a major step forward, as only 47 inspections took place in family homes and 14 in foster families, covering only 13% of family homes and 0.7% of foster families, which is utterly insufficient.

Irregularities were detected in 75% of family homes, notably a shortage of nurses and care givers, disorganised records and registries, accommodation of more beneficiaries than the established capacity, and families that do not live on the premises where the service is provided. In terms of space, it has been established that modifications were implemented without a proper legal basis, premises were untidy and unkempt and rooms had more beds that prescribed. Users are tied down, attention is not given to their health, visits are limited and a user does not sign an accommodation contract. The premises are used illegally and entities involved are fictitious service providers.

In order to prevent irregular and illegal practices in family homes and foster families, centres should regularly organise and implement training and supervision of providers of foster care providers and representatives of family homes, in line with the SWA.

It is especially worrying that family homes often provided the IVth level of service, which is against the Ordinance on the minimal conditions for social services, yet inspectors did not penalise the homes for that. According to the SWA, inspectors need to ban service providers from working if they do not meet the criteria for the provision of their service and if they determine that the way services are provided endangers the health and safety of the users. Provision of the IVth level of service contrary to the SWA and the Ordinance should therefore be heavily sanctioned.

Irregularities were not detected in most foster families, and in the cases where irregularities were detected, they were the cases of accommodating more beneficiaries than allowed, fictitious provision of services, unsatisfactory premises, delays in permit renewals etc. This shows that the control of family homes and foster families needs to be regular, and not mostly ad hoc, following citizens' complaints or requests from relevant bodies, and should cover a significantly larger number of service providers; the MDFYSP should improve the staffing of the Inspection Service.

During 2018, the MDFYSP organised five regional meetings with the representatives of all social service providers with whom it had concluded contracts, as well as three meetings with all service providers for elderly persons in three counties, with the aim of providing them with training. In order to prevent irregular and illegal practices in family homes and foster families, centres should regularly organise and implement training and supervision of foster care providers and representatives of family homes, in line with the SWA.

Apart from the regular training programme and the education of future foster families, continuous education and supervision should be aimed at foster caretakers and representatives of family homes, to provide them with support, especially if they encounter difficulties.

Protection of the elderly from domestic violence

„He waved a gun three times, threatening he would kill us, they deprive us from our right to live in dignity on the ground floor of our house, they shut down our heating, old people, and on Monday they turned off our TV antennas. They hate us from the bottom of their hearts, and look forward to their mother departing as she is seriously ill."

„To whom it may concern: is it possible that a son can't be appointed as caretaker to his father who will be completely immobile and will become a different person due to a head surgery? The social welfare centre told me NO today.
...Children or relatives who do not take care of their elderly, or neglect them, shall be punished by HRK 10,000 or by imprisonment up to 45 days. In case the neglect continues, family members can be punished by HRK 15,000 or two months behind bars. Neglect for an elderly family member, such as non-administering of medication, food or drink in a timely manner is a serious misdemeanour!... He doesn't have ANYONE except for me and his ex-wife (my mother). He can't afford the old folks' home from his pension. Then they told me the State would take care of his home by compensating it from his property. Well, it won't! Even if I end up hungry, I will take care of him as long as he lives."

The new Act on the Protection from Domestic Violence entered into force at the beginning of the year, in which elderly persons were defined as a particularly vulnerable group, following our proposal. The initial data of the MI about the implementation of the Act show 1200 elderly persons were victims of offences under the Act during 2018, and the data on final judgements for acts of domestic violence are still not available.

The obligation of relevant social services to ensure the possibility of providing elderly persons with social services in their home immediately after it becomes known that they have been victims of

domestic violence, which would hinder the institutionalisation of this particularly vulnerable group, has not been stipulated.

Nevertheless, the protection of elderly persons from domestic violence must not be based on sanctioning illegal behaviour only, but should rather have a strong foundation in the policy of continuous family support. Care for elderly persons is often based on family solidarity, and in the RC, according to data from the EC Report on the RC 2015, around 17% of persons aged between 35 and 49 take care of their infirm family members. It is part of the informal care for the old and the infirm provided by spouses or children to their parents; their needs are, however, generally not recognised by laws, so they do not have the possibility to use sick leave or unpaid leave, or to adjust their working hours or gain the status of caretaker. Beside these rights and a wider range of social services, it is necessary to provide them with psychological support, which would enable the old and infirm to stay in their homes and underpin de-institutionalisation, which is what we aim for as a country.

Following our proposal, the Act includes the crime of domestic violence committed by inactivity, and neglect of elderly persons' needs. The complaints of domestic violence against elderly persons received in 2018 referred to the neglect of their needs by family members who have a legal obligation of maintenance or live with them in the same household. Elderly persons have also addressed us with questions as to what exactly is considered to be domestic violence and how to seek help and protection, which confirms that many individuals are still not sufficiently informed. It is particularly worrying that, even when faced with all the relevant information, they are discouraged from pressing charges as they do not have trust in the institutions, fear retribution or simply feel helpless. Other frequent reasons for not pressing charges are shame, tabooing and fear that pressing charges might affect other family members and expose them to prosecution. It is therefore important to promote the prevention of violence against elderly persons, in which inter-departmental cooperation should have the key role, while not neglecting the provision of effective legal cooperation and psychosocial help, as well as examples of best practice from other countries.

Until-death support contracts

The lack of the bare life necessities places elderly persons at risk from all forms of harassment, including by using until-death support contracts, which often leads to the loss of both property and appropriate care at a time when it is the most necessary. Unfortunately, maintenance beneficiaries in most cases contact us only after the contract has been concluded, and the only remedy left at their disposal is a court proceeding to rescind the contract, which is a lengthy and precarious process, particularly aggravated by their age.

We have been encouraging the implementation of additional protection mechanisms for the recipients of until-death maintenance for a number of years to fight this type of economic harassment of elderly persons, and the recommendation from the 2016 report on the prohibition of

concluding such contracts for the social service providers, their employees and members of their families was adopted and included in the 2017 SWA.

The MJ does not have data on the number and average length of court proceedings for the rescinding maintenance-for-life/until-death contracts in 2018, nor on the number of court cases for their rescinding that were closed due to the maintenance beneficiary dying, pursuant to Article 212 of the CPA. The Croatian Notaries Chamber also does not have data on the number of maintenance-for-life/until-death contracts concluded in 2018, since there is no central record of contracts, but it supports the establishment of such a record to make that legal instrument more transparent and enable the control of the number of contracts concluded per maintenance provider.

The Croatian Notaries Chamber also does not have data on the number of maintenance-for-life/until-death contracts concluded in 2018, since there is no central record of contracts, but it supports the establishmant of such a record to make that legal instrument more transparent and enable the control of the number of contracts concluded per maintenance provider.

Given the insufficient research and the lacking data on the number of maintenance-for-life/until-death contracts, as well as on the number of court cases for their rescinding, we conducted a research on the awareness of the risk of concluding such contracts on a sample of 500 persons aged over 65 in 2018. 71% of the respondents were aware of the possibility to conclude until-death contracts, and 76% were aware to conclude maintenance-for-life contracts; however, as many as 72% did not know the difference between the two types of contracts. Also, around 25% of respondents who had heard about these contracts did not feel well informed about the risks of concluding them. They feel slightly better informed about risks connected to property (52%) than about risks connected to the quality of care provided (46%) in case of until-death contracts, and the result is similar for maintenance-for-life contracts. As many as 85% were not aware of the prohibition to conclude such contracts with social security providers.

When asked what would be the best mechanisms of protection for beneficiaries of until-death maintenance, 46% of the respondents said they would be helped by a 'Continuous media information campaign on the risks of entering until-death maintenance contracts', and 42% that they would be helped by 'Starting a registry of maintenance providers'. The respondents said information on the rights of the maintenance beneficiary and responsibilities of the maintenance provider, and information on how to be protected from fraud are the most important contract-related information.

It is for these reasons, as we have pointed out, necessary to increase information outreach and education efforts to prevent the misuse of these contracts; establish a registry of maintenance providers; limit the number of contracts a maintenance provider can conclude; guarantee expediency of the court proceedings in cases of contract rescinding; and assure elderly persons who started such proceedings receive social services. The MDFYSP informed us that in 2018 it had financed the implementation of five projects aimed at information outreach and legal assistance and

producing brochures to stop the misuse of maintenance-for-life/until-death contracts, with the overall budget of HRK 500,000, which were implemented in 13 counties and included 5890 persons.

Elderly persons contact associations that provide FLA only after they sign such contracts. The association Bijeli krug from Split says that until-death support contracts in situations where elderly persons have been exposed to violence for a long period of time, and have been left with no option except for exhausting and uncertain legal proceedings for rescinding contracts represent 12% of all forms of legal aid they provide.

Conclusion

It is important to know that various stakeholders still do not have sufficient understanding or knowledge about the human rights of elderly persons, and their social security is often difficult to deliver. Despite the fact their rights are implied in a number of international documents, large normative voids are still present, as well as problems in the implementation of existing provisions. Our data, along with those of peer organisations from around the world, point to the need to adopt a uniform legal instrument that would meet the needs of elderly citizens, which is also a recommendation of UN's Independent Expert on the enjoyment of all human rights by older persons. Such a Convention on the rights of elderly persons would list all relevant rights in one place, raise their visibility, accessibility and understanding in the society, and raise the states' responsibility for the implementation of measures and policies aimed at empowering elderly persons in all segments of life.

Finally, in order to improve the life of pensioners and elderly persons, and to keep exercising their rights, it is important to insist on broadening the dialogue with the retired and elderly population on all levels, and to integrate them in the decision-making bodies. To improve that collaboration, it is necessary to establish councils for retired and elderly persons in all counties, cities and municipalities, since this form of participation and active involvement in the decision-making process reaches only a small number of elderly persons.

Recommendations:

67. To the Ministry of Labour and Pension System, to expedite the introduction of national pension;
68. To the Ministry of Demographics, Family, Youth and Social Policy, to address the following elements in the new Social Welfare Act:
    - raise the minimal allowance for elderly household members;
    - broaden the social services that would enable the elderly to stay with their families for a longer period of time, and broaden the number of users of the at-home assistance service by lowering the revenue threshold;
    - criteria for the admission of users in the homes co-financed from the state budget;

69. To the Ministry of Demographics, Family, Youth and Social Policy, to provide conditions for social welfare centres to implement regular training and supervision of foster care providers and representatives of family homes;
70. To the Ministry of Health and the Ministry of Demographics, Family, Youth and Social Policy, to regulate the mechanisms of assistance and support to family members, as part of the informal assistance to the elderly and the infirm;
71. To the Ministry of Justice, to regulate the establishment of the registry of maintenance providers, to hinder the financial exploitation of the elderly through maintenance-for-life/until-death support contracts;
72. To the Ministry of Demographics, Family, Youth and Social Policy, to continuously inform the elderly of risks from maintenance-for-life/until-death support contracts;
73. To the Ministry of Foreign and European Affairs, to continue performing an active role in the UN's Working Group on the Human Rights of Older Persons, and support the efforts to begin work on the Convention on the Rights of the Elderly;
74. To local and regional governments, to establish councils for retired and elderly persons.

3.8.2. PENSION INSURANCE

„Having found out things from my dad... I am shocked and I am ashamed that I work and live in such a state that is not able to perform its legal duty... After 60 days, which is the legal deadline for the decision, and not having received one, father sent a letter to speed things up, and after 15 days received a temporary decision of approximately 1700 kunas. This all took place in November of last year... and it has been like that for a whole year. Gentlemen, it is a SHAME that a Croatian veteran has to wait f

„On 22 November 2017, I submitted the relevant documentation requesting the age pension to the CPII, Regional Office Rijeka, branch in Opatija. After a long wait to receive a decision concerning my pension, and without any feedback, I inquired with all relevant services, and the only information I received was that my documents had been sent to Zagreb... I kept calling all available services and nobody answered. I have no source of revenue and can barely survive on the help I receive from relatives, and I am seriously ill and have been going to surgeries, while my file is somewhere forgotten in drawers..."

The pension insurance field was marked by amendments to six major laws in 2018: the Pension Insurance Act, the Extended Pension Act, the Mandatory Pension Funds Act, the Voluntary Pension Funds Act, the Pension Insurance Companies Act and the Act on Supplements on Pensions Based on the Pension Insurance Act, that entered into force jointly in early 2019, which launched the implementation of the long-awaited pension reform, the results of which are yet to be seen.

Some of the changes include raising the retirement age to 67 as of 2033, penalising early retirement by 0.34% per month or 18% for five years, raising the lowest pension by 3.13%, as well as extending the number of pensioners who are eligible for work up to four hours a day, while keeping their pension. A positive step was made by introducing measures mitigating the differences between current and future pensioners, which was our recommendation in the 2017 Report. Until now, insurance beneficiaries did not benefit from the second pension pillar, and pursuant to the new Act, the second pillar beneficiaries are able to choose the system according to which they would receive their pension and which is more favourable for them – just in the first pillar with a 27% supplement for the pre-2002 period and 20.25% for subsequent contributions, or a pension from both pillars, which includes persons who went into retirement based on the general rule in 2017 or 2018 and didn't obtain that supplement.

It is positive that the new Act would raise the lowest pension by 3.13%, which follows the recommendation from the 2017 Report, notably to reform the pension system in view of improving the position of the poorest pensioners. The pensions would be raised for 249,659 pensioners who, according to data from the CPII, received the lowest average pension of HRK 1564.79, which will help reduce the number of pensioners in risk of poverty. This, however, is not enough, since, as pointed out by the Croatian Pensioners' Union, as many as 98% of pensions are lower than the average Croatian salary.

According to Eurostat data for 2017, the trend of pensioners living at a risk of poverty is present across the EU; however, the EU average percentage of such pensioners is 14.4%, and in the RC it is as high as 26%. Almost 52% of pensions in the RC that are calculated according to the general provisions are below the poverty line, which was, according to CBS data for 2017, set at HRK 2339, which is HRK 200 higher than in 2016, but the average pension was only HRK 63 higher (from HRK 2255.06 in 2016 to HRK 2318.72 in 2017). These alarming data confirm the trends in the pension system that are characterised by the adverse ratio of pensioners and employed persons, and the relatively short working period for a significant part of the pensioner population, who therefore receive low pensions

Almost 52% of pensions in the RC that are calculated according to the general provisions are below the poverty line, which was set at 2339 kn, which is 200 kn higher than in 2016, but the average pension was only 63 kn higher.

Expanding the number of pensioners who are allowed to work up to four hours a day while keeping their pension will improve their material situation. Such extending of the labour market, however, raises concerns of misuses of the system by employers who might hire retired persons they had fired before that, as they would represent a significantly cheaper workforce. This solution, therefore, does not add to the sustainability of the system by reducing the influx of new pensioners, which was the principal goal of the reform.

Data on the high level of inequality between pensioners receiving pensions according to general, and those receiving it according to special provisions, is particularly striking. According to CPII data, there were 175,158 beneficiaries receiving the pension based on special provisions in November

2018, including former members of Parliament, Government ministers, judges of the Constitutional Court and the State Auditor, who received pensions averaging HRK 9793.13. Nevertheless, the most special pensions are received by Homeland War veterans, averaging HRK 5745.39. On the other hand, the average pension calculated according to general provisions was HRK 2406.03. Pensions calculated according to general, and those calculated according to special provisions should be harmonised to reduce the disparities between rich and poor pensioners, which is an EC recommendation that was not adopted in the process of pension reform, while recommendations on penalising early retirement and extending the working age to long-term insured persons were taken on board. The MLPS announced it would be done in the future, without specifying when.

As in previous years, and despite our recommendation, as pointed out by CPU, it is not possible to deliver pensions to persons retired after 2014 by post, as it is done exclusively by bank transfer, and banks may, but are not obliged to, offer that service. The obligation of pension transfer by bank was introduced by the 2013 Pension Insurance Act, and the Ombudswoman proposed to the MLPS to establish criteria according to which disabled persons or those with reduced mobility, as well as those living in traffic-isolated areas, would get the possibility to receive pensions by mail at the expense of the CPII. Pensioners, especially if their mobility is reduced, and who live in places where there is no public transportation, are obliged to pay HRK 100 or more to neighbours or acquaintances to drive them to the nearest bank. Nevertheless, the MLPS did not accept the proposal due to possible difficulties in establishing the pensioners' health condition or establishing the exact distance from their place of residence to the nearest bank or cash machine, as well as the inability to foresee the cost mail delivery would impose on the State budget. Unfortunately, this means such persons would keep having additional expenses to obtain their pensions if living in a remote location, or would have to trust family members, friends or neighbours, which could lead to abuse and exploitation.

Former Members of Parliament, Government Ministers, judges of the Constitutional Court and the State Auditor receive pensions averaging 9 793.13 kn.; Homeland War veterans' pensions average 5 745.39 kn, and those with pension calculated according to general provisions receive the monthly average of 2 406.03 kn.

Complaints mostly referred to long procedures of the CPII and overrunning of the APA deadlines for the adoption of decisions, as well as the inability to obtain information on pension rights. The time necessary to receive the decision on pension, the calculation of the pension amount and the first payment is particularly worrying, as pensioners spend months without revenue, often have to borrow money from family and friends, while not receiving information on the status of their file. The CPU also points out that users of free legal aid complained of the work of the CPII in the procedure of pension recognition, and underline that a year, or more, passes between the temporary and the final decision on pension. On the other hand, the CPII states it implements measures and activities for the improvement of procedures and that it implemented a pilot project of introducing independent administrators, who independently conduct administrative procedures and draft decisions, while reducing the number of controllers. The number of administrators dealing

with first and second degree is insufficient, and it is necessary to keep improving their effectiveness and systematically approach the lengthiness of procedures.

Recommendations:

75. To the Ministry of Labour and Pension System, to harmonise pensions based on general and special rules;
76. To the Ministry of Labour and Pension System and the Croatian Pension Insurance Institute, to establish criteria enabling persons with disabilities and reduced mobility, and those living in isolated areas, the delivery of pension by mail at the expense of the state budget;
77. To the Croatian Pension Insurance Institute, to provide conditions for decisions to be adopted in line with the deadlines pursuant to the General Administrative Procedure Act;
78. To the Croatian Pension Insurance Institute, to inform the insurance beneficiaries about their pension insurance rights in a timely manner.

3.9. AGE-BASED DISCRIMINATION

„I need advice regarding working hours and benefits. My name is Ivana, I live with my father who had a stroke two years ago and is 100% disabled. I am employed and face problems every month when I need to bring my father to the doctor's office, sometimes I need to do it several times in a month, the problem is that my GP refuses to issue one-day sick leave note to me, and if he agrees to do it, I feel as if I won the lottery. On my job, they also do not understand my situation. On one occasion, it happened that my father had an epileptic seizure and I called in to inform them I couldn't come because I had to take him to the hospital, the next day my boss welcomed me with a warning that such situations should not happen in the future, because I need to inform him in advance, and if it happens again, he will be forced to lay me off or transfer me to another job. Frankly, I do not know what to do."

Ageing is a life-long process with many biological, psychological and social changes, different for each individual. Age is one of the first characteristics we notice in a person, and one of the most prominent features we use for social categorization. Thus, the age, irrespective of the fact if it is a case of a younger or older person, often may lead to discrimination in all areas of life.

With accelerated ageing of the population, the age-based discrimination of the elderly is becoming an increasingly represented topic of many international forums dealing in human rights of the elderly, where the equality principle is in the foundation of all activities, debates and policies. Thus, at least in the political discourse, the elderly are no longer presented as retired former workers and a homogeneous vulnerable group, but as full members of the society, with competitive potentials and rights which are equal to citizens belonging to all other age groups.

Communication, as a fundamental need, is one of the important prerequisites for equality of all community members, including the elderly. However, communication with them is frequently unequal, and resembles communication with children, so, instead of speaking directly to the elderly person, service providers often address the persons who accompany them. By discussing and deciding on other person's needs, they create communication barriers which may lead to the feeling of exclusion and the position of dependence. The elderly continue to appear rarely in public spaces, predominantly in the role of beneficiaries of social services and objects of public policies, including the ones which directly impact their social status and personal life. For example, representatives of pensioners do not participate in the work of the CHIF Governing Board, although they are the most represented group of the health insurance system.

The elderly experience difficulties in getting access to doctors, due to the inadequate public healthcare service network, lack of public transportation options and reduced mobility. Regarding the access to medication, it sometimes depends on the price of the medication or the top-up payment amount. Compared to 3.3% persons older than 65 in the EU, in the RC, as many as 4.3% indicated that they cannot get necessary healthcare.

According to the EC Report on Inequalities in Access to Healthcare across the EU, in the RC the elderly are identified as one of the groups with limited access to healthcare. Although the number of healthy years after retirement is twice lower than in the EU, the elderly experience difficulties in getting access to doctors, due to the inadequate public healthcare service network, lack of public transportation options and reduced mobility. Regarding the access to medication, it sometimes depends on the price of the medication or the top-up payment amount. For example, compared to 3.3% persons older than 65 in the EU, in the RC, as many as 4.3% indicated that they cannot get necessary healthcare, whilst only 0.9% of the working population experienced the same, which also contributes to the increase of unexpected healthcare problems they face. Although the organization of health care in rural areas remains a great challenge, which is also the topic of the chapter on regional development discrepancies, the issue is still not sufficiently prioritized.

Healthcare and social care of the elderly are impaired by insufficient capacities for residential care, and their quality, equipment and lack of staff were the main topics of the received complaints, as well as in the media coverage. According to the complaints, these institutions are frequently equipped with outdated and damaged inventory, which, also, by their appearance, contribute to the torn-down look and unhygienic conditions. The lack of professional and supporting staff directly impacts the quality of the provided services. The space and quality of care particularly differ in family-run homes for the elderly, which often have outdated equipment and lack nurses and caregivers. On the other hand, the lack of inspectors leads to inadequate control of these institutions, which, in practice, finally allows serious violations of the standards of care for the elderly, which we mention in the previous chapter as well.

Waiting lists for residential care facilities were also the topic of the complaints, since the way they are created is still left to the discretion of individual institutions. By rule, based on the criteria (defined in the decision of the SWC or residential care contracts) and type of care (residential care or nursing home), each elderly residential care facility forms several lists which, along with the fact that the same person applies to several institutions, makes the procedure non-transparent and complicates the control of the application processing dynamics. This causes potential beneficiaries to suspect discrimination on various grounds. Although, already in 2015, the MDFYSP provided directions and sent it to all elderly people's homes, they did not align their internal rules for admission and release of, and some still contain discriminatory criteria for approving residential care.

On the other hand, the lack of available capacities directly contributes to the use of alternative care models, which exposes the elderly to additional risks and makes them additionally vulnerable, especially because the informal elderly care system is not supported by work-life balance policies. Changes in this area still focus exclusively on child care and no possibilities exist to get the caregiver status for an elderly member of the family, flexible working hours schemes, paid or non-paid leave, sick leave, professional nursing support and assistance for elderly family members. So, the ones who care for elderly parents or relatives must cope on their own or use unregistered services, which creates space for fraud, exploitation, and even violence, which is very difficult to control. This problem is highlighted in a complaint filed by a citizen who, pursuant to the SCA, cannot be granted caregiver status, although he cares for his elderly, sick and disabled mother who is a widow with no other children and fully dependent on his assistance. He finds that she, being a widow of heavily impaired health, cannot realize her right to be cared for by her only son, which places her in unequal position compared to the persons with disabilities or ones who live in formal or informal life partnership, in which case their partner could be granted caregiver status.

The lack of work-life balance policies reduces the elderly care to finding safe residential care, which often boils down to bare fulfilment of basic physiological needs. Without family support for the elderly who are often ill, they are frequently left to the care of unprofessional caregivers, providing unregistered service with no supervision or control. This should change, as well as the popular opinion that old-age is almost equal to disability. Irrespective of some progress in palliative care, the persons who are terminally ill in the RC have only one hospice available. Croatia lacks capacities to provide for the needs, but also to protect the dignity of palliative patients and their families, which are barely recognized.

Poverty and social isolation of the elderly, solitude and health problems, impact their mental health as well. Data on the suicide rates in the age group above 60 raise high concern, although the suicide rates in the general population are in decline. Despite this, studies on the causes of suicide among the elderly population are not carried out regularly, and the competent authorities, including the CIPH, according to our knowledge, is not even collecting the statistics on this topic.

According to data from the 2018-2020 Guidelines for the Development and Implementation of the Active Employment Policy in the RC, the employment rate in the above 55 age group amounts to 38.6%, conditions and trends on the labour market, thus, do not seem to support the work life extension strategy. However, despite this, and the fact that developed EU countries link work life extension policies to life expectancy projections (according to the CBS data for the previous year, compared to 2016 data, the life expectancy for boys born in 2017 had shortened by 1.2 months, and for girls 4.8 months), in the RC, the transitional period for extending work life to 67 years of age has been additionally reduced. In addition, the normative framework is not aligned to the indicators which show that elderly workers are over-represented on the redundancy lists, with lesser chances for re-employment, more details on this topic are presented in the chapter on the labour market discrimination of the elderly.

According to trade-unions' information, in corporations which face difficulties or during reorganization, the ones who are laid off the first are often older workers who happen to meet any retirement conditions. They are not sent to retraining or education to keep them active on the labour market, so their early retirement is often caused by the inability to keep or find a job. However, by neglecting the real state of play on the labour market, and by stating that the regulations within the pension system cannot cover the area of protecting workers from early retirement, the state penalizes workers by reducing their pensions. Since the retirement age is universal, the complaints reveal that workers who are qualified only for hard labour, which cannot be sustained in certain age, are especially impacted.

The employment rate in the above 55 age group amounts to 38.6%, so that conditions and trends in the labour market do not seem to support the work life extension strategy. Although developed EU countries link work life extension policies to life expectancy projections, in the RC, the transitional period for extending work life to 67 years of age has been additionally reduced.

Compared to the average salary, the pensions in the RC are amongst the lowest in the EU. So, it is no surprise that, according to the findings of the Munich University Institute for Research in Economics, the RC came 8th on the list of countries in the EU with the most unfair income redistribution. The weak financial status of the elderly was directly impacted by the change of political order, numerous workers were left out of work during the transition period in Croatia and represent a large portion of pensioners who are currently receiving the minimum guaranteed pensions on the grounds of reduced working years. In addition, the relative value of the pensions, according to the Croatian Pensioners' Union (CPU) is continuously declining, which can be attributed to the adjustment methodology, which causes significant delay in pension adjustment to the salary increase. However, the adjustment can often lead to the cancellation of other benefits, when, for example, a minimal raise in the pension due to adjustment, causes the cancellation of the free-of-charge supplementary health insurance, which, in total, usually exceeds the amount of the pension raise.

We received a complaint from a person who, in 2013, at the age of 60 and 9 months, and after 41 years, 3 months and 21 days of working years, opted for early retirement, and received a significantly lower pension. Although the new PIA was adopted only seven months later, introducing the institute of the old-age retirement for long-term insured persons without pension reductions, the citizen who placed the complaint had no possibility to recalculate the pension according to the new, more favourable conditions of the PIA. The sense of inequality and injustice is also induced by the large share of pensioners who entered retirement according to privileged/preferential retirement schemes, one of such schemes covers the retirement of decision and policy makers, whose pension size does not depend on the working years and contribution payment, who are not penalized or limited by ceiling pension amount, and whose adjustment rate to average salary is set to 151%, which is further discussed in the chapter on the pension scheme.

Despite numerous and justified requests by pensioners, free-of-charge postal pension delivery is still available only to the ones who retired prior to 2014, which is justified by difficulties in determining the health conditions and the validity of the primary care doctors' notes, although these notes are valid and admissible in numerous other administrative procedures. The most severely ill pensioners, as well as the ones living in rural areas and on the islands, depending on the services provided by their family or neighbours, are impacted the most by breach of their privacy, dignity and the lack of independence in managing their own funds. The explanation that this can be justified by austerity measures in unacceptable.

Unfortunately, when considering age-based discrimination, the young are also vulnerable, especially in the area of work and employment, but also in other aspects of social life, such as housing and education, which will be discussed in separate chapters.

Access to the labour market and finding the first quality job is challenging for many young people in Europe. In the RC, professional training without commencing employment was the only active employment measure available for the young people below the age of 29. Although many of them were included in work activities, a study of the Institute of Economics in Zagreb indicates that the effect of this measure was neutral, and even negative, due to the salary drop it caused and further employability of the beneficiaries. Although, in the observed period, young people with completed secondary education accounted for 70% of all unemployed, the beneficiaries of the mentioned measure were predominantly highly educated, although they were more competitive and employable on the labour market. Should they have been employed regularly, through internship, they would have had a higher salary and enjoyed other benefits linked to the employment status.

The legal framework for the implementation of the active employment policy excludes all possibilities for legal protection of potential beneficiaries. It states that the use of these measures is not a right, and that it is upon the CES discretion whether it will consider possible appeals. On the other hand, although the situation in the labour market changed significantly, due to the surging labour demand, the quotas for employment of foreigners have been raised, the active employment policy measures

are still being implemented and significant benefits are provided to the employers who, according to the MLPS, still have an opportunity to employ workers without significant financial costs.

Temporary employment contracts continue to be a problem for young workers, which in 2017, according to the EUROSTAT data, accounted for 60.8% (in the 25-54 age group 12.2%). According to the CPII, as much as 25% of all employed workers in the RC have such contracts, and the unions have been warning that as much as 90% of newly employed are employed based on temporary employment contracts. This type of employment, limits the enjoyment of workers' rights, such as the right to sick leave, vacation, bonuses, etc. Based on the statements of the unions, the workers who are permanently employed have larger salaries, which means that temporary employment contracts have a negative impact on the financial situation of the young workers, although they actually perform equal tasks and work under same conditions.

Recommendations:

79. To the Ministry of Labour and the Pension System and the Croatian Employment Service, to design measures for protecting workers above the age of 50 in the labour market;
80. To the Ministry of Labour and the Pension System, with respect to the situation on the labour market, to ensure possibilities for full employment of young workers.

3.10. SOCIAL WELFARE

„I find my social care rights have been violated by the City.. and the social care institution.. the City did not inform me of my right to housing cost benefit: electricity, water, waste management. And the social care institution, also did not inform me on time that I am entitled to a voucher for electricity. Until I found out on my own, time went by and the unpaid bills piled up, which I could not pay with my guaranteed minimum allowance. I am not saying they did not provide this information on purpose, but since my internet was cut, I think that I really should have been informed by someone.. Please understand me, I wouldn't write this complaint if these bills were not constantly dragging me down and if they did not charge default interest."

Poverty is predominantly defined as a lack of material or financial means, whilst social exclusion has a broader meaning and, apart from the economic, includes social, cultural, political and other dimensions, meaning that inclusive policies should include better access to institutions and other mechanisms of social integration. The risk of poverty rate indicates the percentage of persons with monthly income below the poverty line, which in 2017, amounted to HRK 2339 for one-person households, and HRK 4912 for households with two adults and two children bellow the age of 14. According to the CBS data for 2017, the poverty risk rate was 20%, 0.5% higher than in 2016, meaning

that 824,900 citizens were at a risk of poverty. On the other hand, 26.4% were at a risk of poverty or social exclusion, which accounts for more than a million citizens. Compared to previous years, this percentage is declining (29.9% in 2013, and 27.9% in 2016), however it still remains above the EU average (22.5%).

Single-parent families are at an especially high risk of poverty (37.2%), as well as singles (44.7%), especially concerning are the prospects of singles, older than 65 (47.8%), more details about this can be found in the chapter on social security of the elderly. Data unambiguously show that these groups of citizens are especially vulnerable, and that special attention should be paid to the elderly, single-parent families and families with more children and reduction of their poverty.

Single-parent families are at an especially high risk of poverty (37.2%), as well as singles (44.7%), while especially concerning are the prospects of singles older than 65 (47.8%), which unambiguously shows that these groups of citizens are especially vulnerable, and that special attention should be paid to these particularly vulnerable groups of citizens, focusing the measures on the reduction of their poverty.

The Strategy for Combating Poverty and Social Exclusion in the RC (2014-2020) focuses on establishing conditions which allow successful combat against poverty and social inclusion and reduction of social inequality, among other things, by reducing the number of persons at a risk of poverty. According to the Strategy baseline data from 2012, 32.3% were at risk of poverty and social exclusion, whilst by 2017, this declined by 5.9% and reached 26.4%, which is evidence to a reduction of poverty and social exclusion. However, according to the 2017 CBS data, more than 413,000 persons live in severe material deprivation, which means they cannot ensure a meal containing meat, fish or vegetarian supplement every second day, cannot cover unexpected financial costs, cannot regularly cover utility bills and cannot afford one week of vacation away from home. At the same time, only 0.5% or 20,622 persons live in households which make ends meet with no difficulty, whilst 43.9% or 1.8 million manage with difficulty or with serious difficulty.

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With respect to the social protection expenditure, according to the ESSPROS[7] methodology, in 2016, 21.4% of the GDP was spent for all types of social protection expenditures, 7.2% for old age, 7% for illness, and only 0.3% for social exclusion. The share of individual functions in total social protection benefits was allocated as follows: 34.2% for pensions, 33% for healthcare, whilst social exclusion, which is unclassified elsewhere, accounts for low 1.4%, which represents a 0.2% increase compared to 2015, due to the introduction of the vulnerable energy consumer benefit.

[7] https://www.dzs.hr/Hrv_Eng/publication/2018/10-01-05_01_2018.htm

Social exclusion benefits include, among others, the guaranteed minimum allowance (GMA), housing costs benefit, heating costs benefit, vulnerable energy consumer benefit and one-off benefits. In 2017, 84,930 GMA beneficiaries were recorded, accounting for only 10.2% of the total number of persons living at a risk of poverty, which reveals the exceptionally low coverage of this benefit, since the risk of poverty threshold, which amounts to HRK 2339 for a single-person household, exceeds by far the income census achieved by GMA (HRK 800 for work capable persons, and HRK 920 for persons incapable for work). These low amounts of the GMA create a deep poverty gap, which we identified and recommended a GMA increase already in our 2016 and 2017 Reports. In the 2015-2018 period, a sharp drop in the numbers of GMA beneficiaries was recorded, by 30,965. Although we do not know if these data were evaluated and what the reasons behind this decrease were, it could be assumed that poor information about social care rights, strict income and asset censuses for GMA eligibility, employment and depopulation might be among them.

,,Esteemed Ms. Ombudswoman, please file a law suit against the municipality... they refuse to solve anything and say that HRK 8 monthly is enough for me. They refuse to issue a decision for this year, please, I can't afford to buy bread. May God punish them for playing games with me and the poor. Please help me get bread. So much...''

costs benefit was recorded, and the total amount spent for the benefit decreased by 9%. The housing costs benefit should be approved up to the half of the GMA amount, but some LRGUs pay significantly lower amounts, so that even symbolical amounts are granted, amounting to HRK 8. In other cases, due to a lack of funds, they do not recognize this legal right to their residents. Therefore, provisions of the SCA should be clarified and the amounts of this benefit should be defined, as well as the mechanisms for transferring funds to the LRGUs which cannot ensure sufficient funding in their local budgets. Also, many citizens do not realize this right because they are inadequately informed.

The housing costs benefit should be approved up to the half of the GMA amount, but some LGUs pay significantly lower amounts, or do not recognise them at all.

According to the SCA, while performing administrative control of the LRGU, the authorized officer of the MDFYSP can suspend the execution of a general act in the area of social welfare in case of findings that it contravenes the SCA, can set aside or annul the decision of the supervised body and order a launch of disciplinary procedures against workers or heads of the bodies. In addition, the authorized officer should, for example, suspend the execution of a general act which is not harmonized with the SCA, but this is not done in practice. Namely, in 2018, 25 administrative controls were performed of LRGUs, and only on two occasions wrongdoings were not found, which clearly shows that the number of controls should increase. However, this cannot be expected from 7 civil servants, who also carry out complex controls of the social care institutions, and the Service for Administrative Control of the MDFYSP, therefore, should

be strengthened, by fulfilling the employment plan and three vacant job positions, in addition, systematic training of LRGU employees should be carried out to instruct them how to execute the law appropriately.

The Form for the pre-assessment of the Draft Bill of the SCA from September 2018 reveals that the MDFYSP plans to improve the adequacy and coverage of the SCA, which meets our recommendation from several previous reports. New amounts of social benefits should guarantee dignified living for the majority of vulnerable citizens and be aligned with the principles of the European Pillar of Social Rights, and we welcome the announced changes, especially the use of poverty maps for SCA drafting. The maps indicate a relatively stable geographic distribution of poverty and the need for additional investment in these areas, including the social benefits and services.

In addition, the one-off benefit should be redefined, which is currently limited to HRK 2500 annually for a single person and HRK 3500 for a household, and the augmented one-off benefit, which is granted with a previous approval of the MDFYSP and amounts up to HRK 10,000, especially in terms of its improved targeting.

Social supermarkets and food donations

According to Croatian Red Cross and Croatian Caritas data, the number of beneficiaries needing food and hygiene products is continuously growing. By rule, they are supplied by donations and self-financing, receive funding from county/city budgets or MDFYSP projects. Unfortunately, donations of food in some areas are insufficient and receive more commodities from the state reserves than from retail or food producers, whilst in other areas collaboration with large retailers is better and co-financing is ensured through the Fund for European Aid to the Most Deprived (FEAD). According to their estimates, 10,000 meals are distributed daily in Croatia. If we compare this to the number of persons in extreme poverty, which is 413,000, evidently, the soup kitchen and social supermarket services are insufficient, and their financing should be regulated systematically. They should also be recognized as important stakeholders in the system, which cooperate with the social care institutions and LRGUs and contribute to the mitigation of extreme poverty effects, which we already wrote about in our 2016 and 2017 Reports when we recommended legal regulation of the social supermarkets operation, which was not carried out. The position of the MDFYSP is that the social supermarkets cannot be legally regulated by the SCA, since they are projects of CSOs and LRGUs, however, since their financial sustainability and continuous operation is impaired, no barriers exist for legal regulation, which was the case with soup kitchens, which started operating similarly.

According to data by the Croatian Social Supermarkets Network, 34 of them are managed by the municipal Red Cross, Caritas and humanitarian associations, in Zagreb, Koprivnica, Križevci, Virovitica, Belišće, Našice, Krapina, Čakovec, Opatija, Sisak, Karlovac, Solin, Split, Dubrovnik, Vukovar and Imotski, and another 10 are expected to join, mainly as part of projects relying on civic volunteering. In order to improve the food donation system, the Network proposes the establishment of regional food banks, extension of the donation deadline to five days, introduction of additional reliefs for retailer chains and more balanced distribution of donations to all supermarkets.

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In the 2016 and 2017 Reports we recommended amendments of the Ordinance on Conditions and Modalities of Donating Food and Feed, to foster and promote food donations, specify the criteria final beneficiaries should meet and establish the unique registry of donors and final beneficiaries. With respect to our recommendation, the Agriculture Act was amended and the definition of final beneficiaries of food aid was extended, which allowed food distribution to all who need it. In addition, the Ministry of Agriculture plans to change the donation deadlines in the new Ordinance, in order to facilitate donations additionally, and incorporate provisions about consuming food after the 'best before' expiry date, based on the findings of a study on food shelf-life, carried out by the Croatian Food Agency. We also welcome the acceptance of our recommendation to establish a register of donors and final beneficiaries that will be used by intermediaries to record registered users.

The homeless

According to the principles of the European Pillar of Social Rights, to promote their social inclusion, the homeless should be provided with adequate shelters and services. The UN uses two types of definitions of homelessness, absolute and relative. Absolute homelessness covers cases when people do not have a 'roof over their head' and sleep outside, in vehicles or other spaces unfit for human housing, and relative homelessness covers persons with a 'roof over their head', but who lack basic health and safety living standards, such as adequate protection from the elements, access to drinking water and sanitary facilities, personal safety and other. In addition, the European Federation of National Organizations Working with the Homeless (FEANTSA), developed the typology of homelessness and housing exclusion called ETHOS, including the four main types: no roof over the head, no apartment/house, unsafe, and inadequate housing, and they all can be described as the lack of a home.

On the other hand, the definition of a homeless person as a person who has nowhere to reside, lives in public or other spaces unfit for housing and lacks means to fulfil their need for housing, provided by the SCA, includes only those persons which fit the absolute homelessness category. If we compare this to the ETHOS typology, it includes only the persons with no 'roof over their head' and excludes

the ones with no apartment or house or live in unsafe or inadequate housing. Since they can also be considered as persons without a home, the definition of homelessness in the SCA should be harmonized with the ETHOS typology, which we already recommended in our 2016 and 2017 Reports.

The Croatian Network for the Homeless estimates that approximately 2000 persons live in absolute homelessness, with no roof over their heads, and by using the ETHOS typology, the number of homeless would raise to 10,000.

Large cities and seats of counties have a legal obligation to earmark funds in their budgets for homeless shelters, but more than half of them fail to do that. CSOs, humanitarian and religious associations continue to be major stakeholders for the homeless by providing additional support with shelters and soup kitchens. Although the counties are obligated to co-finance the shelters in larger cities which lack funding for that purpose, the MSDYSP does not collect data on that.

Large cities and seats of counties have a legal obligation to earmark funds in their budgets for homeless shelters, but more than half of them fail to do that.

In 2018, 14 homeless shelters were registered in: Dubrovnik, Karlovac, Kaštela, Osijek, Pula, Rijeka, Šibenik, Varaždin, Zadar, Zagreb and Sesvetski Kraljevec with a total capacity for 383 homeless persons, and on 31 December 2018 they were hosting 364 – 315 men and 49 women. However, according to data provided by social care institutions, on 31 December 2018, 493 homeless persons were placed in shelters. In previous years, the number of homeless registered by shelters exceeded the SWC data, which has reversed now, as it seems that the legal provision which cancelled the eligibility for granting GMA to people living in homeless shelters caused them to leave the shelters in order to get this benefit. Thus, we recommended that they should also become eligible for the GMA, to facilitate their job seeking, transportation and social integration. Discrepancy of data provided by homeless shelters and SWCs indicate that the register of homeless persons should also be regulated, especially if the new SCA introduces the definition harmonized with the ETHOS typology.

According to SWC data, as many as 88% of the registered homeless are of working-age; and 75% of them are unemployed, out of which 53% do not have any, and 45% have some qualification. These indicators show that more effort should be invested in their employment by implementing measures of the active employment policy, as this is one of the main prerequisites for stopping homelessness, which we describe in more detail in the chapter on income-based discrimination. Furthermore, for 69% of persons, the reason for homelessness is a lack of means for coverage of housing costs, which indicates that housing benefits and subsidies should be increased. In addition, in the RC it would be beneficial to develop the 'housing first' model, implemented by many European countries, which allows the homeless to live independently by provision of a secured permanent lease, combined with psychosocial support, medical treatment or other necessary services.

In 2017, FEANTSA reported an increased number of the homeless in almost all European countries. The official estimated number of the homeless in the RC is collected by counting the used capacities of the shelters, which is 400, this may lead to the conclusion that homelessness is not a serious problem, which is not true. Homelessness is one of the most extreme forms of exclusion, which needs to be tackled systematically, and effective social inclusion supported. The elderly and incapacited for work are especially vulnerable, as well as persons with mental and intellectual difficulties, to whom adequate care cannot be provided by homeless shelters. Unfortunately, irrespective of the fact that the SCA limits the duration of stay to one year, they usually remain in shelters for years, instead of being placed in care of extended residential care providers. Health protection is another problem for persons without registered residence, because the bills for hospital stay are sent to shelters. We wrote about that in our 2017 Report and recommended changes to the MH and MDFYSP, but the registered residence still remained a criterion for health protection services provision. The Act on Compulsory Health Insurance should grant the right to health protection to the homeless irrespective of registered residence.

The so-called hidden homeless are not registered in shelters. It is estimated that at least 1500 persons live in public spaces and objects unfit for housing, out of which 500 in Zagreb, where they come from other parts of Croatia because of more developed social services, such as social supermarkets and soup kitchens, and hoping to find a job.

In the past two years, the Croatian Network for the Homeless and its members have been paying special attention to the so-called hidden homeless, which are not registered in shelters, and developing new and more appropriate services which are provided through day-care and field services. It is estimated that at least 1500 persons live in public spaces and objects unfit for housing, out of which 500 in the City of Zagreb, where they come from other parts of Croatia because of more developed social services, such as social supermarkets and soup kitchens, and hoping to find a job. In Zagreb, because of the growing needs, the Network, financially supported by the MSDYSP, established the Centre for Assisting the Homeless and Persons at Risk of Homelessness and a residential community unit, as well as day and half-day stay facilities in which persons who are not in shelters get assistance and support. However, the number of hidden homeless is evidently growing in other larger Croatian cities such as Split and Rijeka.

During 2018, HRK 2.5 million was ensured for financing three-year programs to develop and extend services for the homeless in the local community from national funds, part of lottery funds and the state budget. This surely would have been be a good opportunity for upgrading, if the problem of the homeless was approached systematically and accordingly. To conclude, the rights of the homeless should be more precisely defined by the new SCA, more needs to be done to develop homelessness prevention programs on the national and local level, which requires financial support, collaboration and commitment of the decision makers. Therefore, the National Strategy on Homelessness and the Protocol for Treating the Homeless should be adopted, and used to harmonize existing or establish new programs on the local level.

The young in alternative forms of care

As part of the transition process, beneficiaries of child care institutions older than 18 and younger than 21 are entitled to social services of joint housing with occasional support, as well as counselling and assistance after leaving institutions. Young adults can remain in the institution and assisted community housing until the age of 21. According to the reports of the child care institutions for minors without parental care, in 2017, 203 persons used the community housing service, out of which 61 used occasional and 75 comprehensive support, 64 persons lived in community housing with professional care providers, 64 stopped using the housing service upon full age or completion of education. In the child care institutions, 48 children used the service of counselling and assistance after leaving institutions and 390 children in foster care, which is an increase compared to last year.

Once they reach 21, after leaving the social care institution or community housing, former children's home beneficiaries often end up in homeless shelters. Community living should be ensured for them, until employment or readiness for independent living.

Once they reach 21, after leaving the social care institution or community housing, former children's home beneficiaries often end up in homeless shelters. Community living should be ensured for them, until employment or readiness for independent living. For example, in the Caritas homeless shelter, as much as 21% of users are such persons. These problems remain unchanged for years, and in our 2016 and 2017 Reports we already recommended that adequate organized living facilities should be provided to such young people even after they reach the age of 21, accompanied by assistance of mentors or professional counselling before leaving alternative care. However, no progress has occurred.

Second-instance procedure

In 2018, no significant acceleration of the delivery of decisions in social care cases was recorded in the MDFYSP Second-Instance Appellate Service, because of the backlog transfer from the previous period and newly arrived cases in 2018. Even after taking into account these and other reasons for breaching legal deadlines for delivery of decisions in appellate procedures, we find unacceptable that such procedures last for three or three and a half years, especially because they impact the rights of the most vulnerable groups. It is a matter of utmost urgency to create conditions which will allow decisions to be rendered in the reasonable and legally defined timeframe of 60 days.

Recommendations:

81. To the Ministry of Demography, Family, Youth and Social Policy, to include in the New Social Welfare Act:
    - the increase of the amount of the guaranteed minimum allowance, especially for household members who are incapacitated for work or income generation;

- precisely defined provisions on the amounts of housing costs benefits and mechanism for financial transfers to local self-governments which cannot ensure funding for this purpose in their municipality budget;
- a larger variety of basic existential needs as eligibility criteria for one-off and augmented one-off benefit, and increase their amounts;
- define homelessness according to the ETHOS typology, right to guaranteed minimum allowance for the homeless in shelters and other rights aiming at their social inclusion, as well as the registry of the homeless;
- possibility for organized community housing for young in alternative care until the age of 26;
- define social supermarkets as a social service and regulate their financing;

82. To the Ministry of Agriculture, in collaboration with the Ministry of Demography, Family, Youth and Social Policy, to include provisions which encourage food donations in the new Ordinance on conditions and modalities of donating food and feed;
83. To the Ministry of Health, to include in the draft of the new Compulsory Health Insurance Act a provision that will grant the right to free of charge healthcare to the homeless, irrespective of their regulated residence;
84. To the Ministry for Demography, Family, Youth and Social Policy, to prepare the National Strategy on Homelessness and the Protocol for treatment of the homeless;
85. To the Ministry of Demography, Family, Youth and Social Policy, to ensure prerequisites for timely and efficient appellate procedures respecting of legal deadlines.

3.11. PROPERTY DISCRIMINATION

Compared to the previous year, in 2018, we received a significantly higher number of complaints regarding property discrimination. For this reason, in this Report, we pay special attention to its specifics in a separate chapter. The ADA is one of the rare anti-discrimination acts which include the prohibition of property discrimination, which is of key importance in the times of rapid growth of economic inequality and deepening of the gap between the rich and poor.

The specificity of property as a ground of discrimination is that it is often a double process, when discrimination based on other grounds may lead to poverty and social exclusion, and lower socio-economic status by itself increases the risk of discriminatory treatment in other areas of life. Typically, it is manifested as structural discrimination linked to poverty and low living standard, which incapacitates the poor to freely participate in all aspects of public and social life, especially with respect to access to justice, labour market and some public and social services.

The latest survey on the attitudes and awareness of discrimination and its manifestations, from 2016, shows that 26% of the respondents think that social origin and property of the individual are characteristics linked to discrimination. According to the latest available data of the CBS, 20% of citizens live at a risk of poverty, while, persons older than 65 are especially disadvantaged, since as much as 28.6% of them live at a risk of poverty.

Discrimination is not reported because of a lack of financial means, distrust in institutions or a lack of citizens' knowledge about their rights, and it remains a significant problem, especially in the case of citizens with lower property status. In addition, property discrimination is characterized by multiple or intersectional discrimination, where lower property status often appears in parallel with other grounds of discrimination or there is an interlock of different characteristics of individuals which are inseparable to their socio-economic status. The most disadvantaged are the marginalized groups of citizens who often suffer discrimination on other grounds as well, such as the Roma, homeless, pensioners, long-term unemployed and others.

The Roma often live in extremely arduous conditions, marginalized and socially excluded, being a group whose socio-economic status interlocks with other grounds for discrimination and impairs their social participation, which we describe in more detail in the chapter on discrimination based on race, skin colour, ethnic or national origin. The homeless live in extreme poverty, and are often invisible to the society, because of their low socio-economic status, they have no, or significantly limited access to the labour market, goods and services, as well as to health insurance, and we provide more details about that in chapters on social care and status rights.

Access to justice

Citizens of lower socio-economic status also often complain through the anti-discrimination hot-line, that state authorities and institutions do not protect them sufficiently and that they lack expert and professional assistance, as well as funds for initiating lengthy court proceedings with uncertain results. Citizens who are discriminated on any grounds and have no access to justice and efficient legal protection due to their socio-economic status experience multiple discrimination.

The CSOs which provide FLA also indicate that the FLA system, which should be an institute ensuring the equality of protection of rights to all citizens, is significantly flawed. The CSOs emphasize that they have been continuously and increasingly receiving requests from socially disadvantaged citizens, who are unable to solve their legal problems and do not know who to approach to realize their rights. Due to the complexity and the weaknesses of the FLA system, this topic is recurring in our chapters on justice system for years. Indicatively, same as in the previous years, the CSOs have been identifying the lack of funding and continuous delay of MJ payments within project grant schemes, as the main problem.

Employment

Citizens of lower property status certainly benefit from entering the labour market, which is important for exiting the poverty circle and social inclusion. Our 2016 Report recommendation has been accepted and, pursuant to the Act on Administrative Fees, the fees for issuance of qualification certificates and diplomas as proof of qualification are no longer charged to the unemployed, because this could create an insurmountable employment barrier for citizens of lower property status. However, since we have been continuously receiving complaints from the unemployed regarding the costs of notarization for copies of official documents, obviously they should be

informed better of this, to avoid misconceptions about the financial costs which could discourage them from applying for jobs.

In addition, employers often collect a lot of data about job candidates via standardized forms, and many are unrelated to job requirements. We received a complaint about such a form of a company which, for the key account position, included questions on the national origin and household type. We warned this employer of the discrimination on grounds of national origin, and because data on the type of household may trigger property discrimination, we recommended exclusion of all questions unrelated to job requirements.

Active employment policy measures are one of the instruments used for facilitating access to the labour market to the groups and individuals living in poverty or with limited resources. The CES included a total of 36,935 persons in various active employment policy programs, most difficult-to-employ categories are recorded separately, so 981 persons with disabilities were employed, 6506 persons in the 50 and above age group, 6673 long-term unemployed, 448 Roma, 2224 Croatian war veterans and 4 homeless persons. However, this accounts for less than 50% of the total number of persons employed through these programs, and affirmative measures predominantly targeted persons with other protected characteristics such as ethnicity, age, gender or social status, which are indirectly linked to the socioeconomic and income status as well. These measures focused on compensating for the barriers which disadvantaged persons encounter upon employment. For example, the 'Make a wish' Project, financed through ESF funds, targets difficult-to-employ women in vulnerable position on the labour market.

'Make a Wish' Project

„Please keep this complaint anonymous. I am filing a written complaint against the way how the candidates were selected for the geriatric nurse job vacancy published on the municipality website. The list of selected candidates contains several irregularities. The candidates either do not fulfil the criteria or are in a direct conflict of interest whether being in close family relations with municipality officials, such as the wife of the deputy Mayor. We think this is an impertinent act because some of us who were discriminated, although we fulfil all the criteria for the job, could have performed the job in full duration of 24 months as it was planned, unlike certain individuals, who were openly saying at the beginning that they will only do it for three months before they leave to work on the coast for the tourist season. We will just share an example that one of the rejected candidates was an unemployed mother of two minor children, with no high-school qualifications, unemployed husband and family monthly income amounting to zero."

In 2018, the MLPS continued the implementation of the 'Make a Wish' project, within the scope of affirmative action measures for promoting social inclusion and poverty reduction by focusing on employment of disadvantaged women on the labour market in remote areas, and areas in which the unemployment rate and long-term unemployment rate exceeds the Croatian average. The

project is implemented by LGUs and CSOs and by 2020, it aims to employ 3045 women in assistance and care jobs for the elderly, incapacitated and disadvantaged persons in their communities.

The target group are unemployed women, with completed secondary education and lower, registered as unemployed, with special emphasis on: women older than 50, women with disabilities, human trafficking victims, domestic violence victims, women with granted asylum, young women exiting alternative forms of care such as children's homes, foster care, correctional centres, etc., treated addicts, reintegrated prisoners who exited prison in the previous six months, the Roma, the homeless.

After the job competitions for assistance and care jobs, which were predominantly carried out by LGUs, were completed, we received a larger number of complaints from the candidates pointing out non-transparent selection criteria, suspicion of unjust treatment and irregularities during the selection procedure. They warned of preferential treatment during selection, but also of age-based discrimination, as well as discrimination on the grounds of education, political or other convictions. During the selection, individual LGUs evaluated the criteria differently, the criteria were set rather vaguely and broadly, which created space for unequal treatment by the selection committee.

The largest number of complaints were in the area of property discrimination, emphasizing that the selected candidates were of a better income status, and that their family members had high income, and that the income they would get through this project was not of existential significance to them. By selecting younger candidates, of better education, belonging to a certain political option and who were financially better off, the complainants found the purpose of the project was disrespected.

In many municipalities, prior to the job competitions, conferences were held and potential candidates were informed about the target groups, which resulted in creation of unrealistic expectations that automatic selection in the programme will be guaranteed if, for example, they fulfil the condition of being older than 50. Furthermore, some categories, such as victims of domestic violence, were not given precise instructions on which type of documents they could use to present as evidence of this status.

According to CES records, in 2018, in Croatia there were 4467 women without primary education or with partial primary education, which are in an extremely disadvantaged position on the labour market and should be included in this project. Although the formal criteria do not exclude them, in practice, their participation is obstructed and their applications were rejected, because attending and passing training for caregivers was a prerequisite, and such training cannot be completed without completed primary school.

In some cases, it was difficult to determine suspected discrimination for individual candidates, since the lack of specific and clearly defined job application evaluation guidelines opened space for various abetting or discriminatory actions. We recommended the CES and MLPS as project implementers, to create and publish clear and specific guidelines for LGUs and CSOs as project implementers to follow when assessing individual applications, as to harmonize the employment procedures. The CES and MLPS did not forward any data on the number of most vulnerable women who were

employed under the scope of the 'Make a Wish' project in 2018. Transparent publication of such data is necessary for assessing the effectiveness of this program and achievement of its aim to include women living in risk of poverty due to unemployment on the labour market, and due to that are hard to employ.

Access to goods and services

Throughout the year, on several occasions we were contacted by pensioners who had difficulties accessing various public or social services due to their low pensions. As much as 32% of pensioners live at risk of poverty and social exclusion and are often exposed to multiple discrimination. We acted upon complaints regarding their inability to pay full amount of the CRT fee, and we welcome the Decision of the CRT Supervisory Board which allowed a 50% exemption for several categories of economically and socially most disadvantaged citizens. This includes pensioners who receive pensions amounting less than HRK 1500 from the state budget and were obliged to pay full CRT monthly fee prior to the Decision. The television programme for many is the sole source of cultural, news and entertainment content, however, the ones who receive pensions bellow HRK 1500, but not from the state budget, remained in the group which must pay the full fee. These are mostly persons who used to work in neighbouring countries with no other income and cannot afford the monthly payment of HRK 80. Therefore, we recommended to the CRT to extend this exemption to all people receiving pensions amounting less than HRK 1500, irrespective of the source of payment, but the recommendation was not accepted with an argument that only the CPII can provide data on the amount of the pension and they keep records only for their beneficiaries.

We also received a complaint from a retired person who was applying for decentralized residential care for the elderly, and faced the obligation to submit a notarized statement that if the care was realized, she would accept all the obligations pursuant to the residential care contract. This practice is used as additional guarantee with the application, since the candidates, due to limited capacities, often apply to several institutions, years in advance. However, the submission of the notarized statement and the linked financial cost may act as a deterrent for persons of low income. In the specific institution, all candidates, irrespective of their income, are requested to submit this notarized statement, and since it is not a barrier for accepting the application should they omit to do so, this should be clearly stated on their web page, and at the reception.

Recommendations:

86. To the Croatian Employment Service, to publish information on their web page, about exemption from the obligation to pay qualification certificate and diploma issuance fees when applying for a job;
87. To the Ministry of Labour and the Pension System, to issue target group specific guidelines for assessing the candidate application within the Women employment programme – Make a Wish.

3.12. HOUSING, ENERGY POVERTY AND ACCESS TO WATER

„I moved to... as a single mother of three in 2003, after I decided to stop domestic violence. As a teacher I got employed in a primary school... where I still work today. All these years I never managed to get child support I took care of everything on my own. I changed nine rented flats, because gradually they were all transformed into apartments for tourists."

According to the 2011 CBS data, as much as 89.38% of households live in privately owned apartments, but that does not mean that citizens experience no problems with housing or that they reside in adequate buildings and living conditions. The economic crisis brought unemployment, job uncertainty, insolvency, and many cannot fulfil their housing needs on the real estate market. The 'housing stress' is more frequent and it occurs when housing costs account for more than 30% of the monthly income, therefore, the housing of the disadvantaged should be regulated comprehensively, both with respect to availability and prices, and with respect to ensuring basic standards and quality housing.

The right to housing is mentioned in the Universal Declaration on Human Rights and the Revised European Social Charter of the CoE. In the EU, based on the Charter of Fundamental Rights , the European Pillar of Social Rights was adopted with its 20 principles, which, when applied, should bring more effective results in the area of housing and assisting the homeless. In the RC, provisions on housing of various categories of citizens, such as Croatian war veterans, members of certain national minorities and other, are regulated by different laws, which makes it difficult to reference, and there is also a lack of recent surveys. The 2017 Spatial Development Strategy of the RC highlights the importance of housing primarily from the perspective of its function, design and spatial protection, and the 2013-2020 Government Architecture Policy underlines that the housing policy should offer and regulate various housing models tailored according to the financial status, age and size of the family.

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The housing policy is an important segment of the general policy and is intertwined with economic, social, regional development, and environment protection policies. If these elements remain unconsidered within a long-term perspective and not harmonized, the citizens are forced to cope on their own, which often means entering debt and living above their means, residing in inadequate spaces with no sanitary facilities and energy, illegal construction and space deterioration, illegal tenants, infrastructure problems, moving to other cities despite of employment and so on. Given the importance of having a home for the individual and the society, development

of an integrated development document should be considered, with an overview of legal and institutional framework in the area of housing, estimates of present and future needs with perspective on vulnerable groups and demographic trends, possibilities of non-profit publicly owned residential construction, subsidies, short-term and long-term lease and so on.

Many citizens find the real estate market prices too high. The 2012-2017 real estate market overview shows that the coastal real estate is the least affordable, in Podgora, for example, only 3.2 m2 could be purchased for the value of annual net income. Compared to that, in the rural areas of Central, North-Western and Eastern Croatia, apartment prices range from HRK 5000 and less per m2, which reflects the economic and demographic deterioration of these parts of the country, and the price of apartments is also impacted by the lack of workforce in the civil engineering sector. In Dalmatia and Zagreb, gentrification is occurring, the native population is moving out of the city centres because of growing living costs, the transformation of majority of areas into business zones, and putting all vacant square metres to the use of the tourism industry.

Situation on the islands is particularly difficult. The woman who complained is considering leaving one of the islands, she is a primary school teacher, single mother of three, who cannot buy or rent an apartment in the place she lives in, because apartments are either too expensive or available for tourists only. This case is not the only one, isolation of the islands causes professionals to leave, and even if they come to the islands, they have problems with housing because the LGUs usually do not have their own apartment stock, and the state-owned apartments, even if available, are let through calls for applications. On the coast and in Zagreb, situation is the same, which especially impacts the students and seasonal workers, but in this specific case it is encouraging that the city asked the MSP to cede several apartments, as we have proposed.

The state continues to try to resolve the housing problem through the Subsidized Residential Construction Programme (SRC) and subsidized housing loans, especially for younger citizens. According to data provided by the Agency for Real Estate Transaction and Brokerage, by the end of 2018, a total of 8272 apartments in 253 buildings were provided through the SRC Programme. The selling price ranged from 949.05 to 1125.66 €/m2 approaching the market prices, while the lease prices were more affordable: 17 to 25 HRK/m2. More complaints are coming in, providing information that some SRC apartments are being sublet to tourists instead of being used for housing. Since the SRC was launched to allow young people to get housing at prices significantly lower than the market prices and that public funding was invested, it is necessary to develop mechanisms for preventing misapplication.

In 2017 and 2018, a total of 5300 subsidized housing loans were approved and, in 2018, a total of 2985 were realized, from October 2017 to December 2018, 400 children were born in the households of these beneficiaries. On a positive note, the amendments of the Act on Subsidizing Housing Loans, from July 2018, extended the period of subsidizing from four to five years. Another novelty is that the amount of the subsidy correlates with the city or municipality development index, so, the ones

in the most developed cities have the lowest subsidy, which caused dismay of future beneficiaries, because the prices of apartments in these cities are the highest.

Although schools are free to decide on how to use the school owned apartments with a prior approval of the school founder, the apartments in Beli Manastir are still not placed on the market because responsibility is being shifted from the school to the county, and then to the MSE and MSP, while tenants, school employees lose hope that they will ever be offered to purchase the apartments they have been residing in for decades.

It may be concluded from the complaints that problems with housing are also caused by the complicated legal framework and the lack of accountability of competent institutions. In 2013, we acted in the case of purchasing school apartments in Beli Manastir, but this problem remained the same. Schools are free to decide on how to use the school owned apartments with a prior approval of the school founder, which the SAO also confirms, but the apartments in Baranja are still not placed on the market because responsibility is being shifted from the school to the county, and then to the MSE and MSP, while tenants, school employees lose hope that they will ever be offered to purchase the apartments they have been residing in for decades.

Problems with decent housing and peaceful enjoyment of ownership are also experienced by property owners in the Baštijanova street in Zagreb, in which the City blocked their property pursuant to the City Urban Planning Document dating from 1974, when the corridor for the major road was planned there. The individuals living there are of low-income and their property and infrastructure is deteriorating. After all reasonable deadlines have passed, the project was divided in two phases. In the first, the location permit became final in January 2018, and for the second even earlier, and recently the settling of property relations was initiated. It is the right of the LRGU to define physical planning priorities on its territory, but in this case, by delaying procedure beyond all reasonable deadlines, the balance was disturbed between community interests and interests of individuals.

Although from 2017 to September 2018, the MSP was staffed with 74 additional officers, we continue to receive complaints about the duration of their proceedings, for example, upon one request for apartment sale pursuant to the Decision on sale of apartments owned by the RC, which was submitted in 2011, 2012 and 2014, and the woman who complained accepted the offer for payment in instalments, however the contract was not signed to the very day. Another 931 similar requests await finalization, and since land registry entry is often required in parallel, this leads to additional delays, and the citizens are starting to lose patience and understanding. In addition, in 2018, additional 24,803 cases were received from different areas, but mostly linked to real estate, and we can expect new problems in the future.

In our 2017 Report, we pointed out to the problem of long-term illicit tenants residing in state-owned apartments who are waiting for their status to be legalized, and some progress was made in this area. According to the new State Property Management Act (SPMA), purchase through direct

contracting is allowed for all tenants residing in apartments for longer than five years who regularly pay all dues, irrespective of the legal grounds for apartment use. A total of 250 applications were received, but the MSP did not provide a clear answer whether social and income criteria would be considered.

Putting state property into use is a priority, but this process must be transparent and managed according to predefined and published rules, evenly and with publicly declared goals and aims. The example of apartments in Borovje shows that state property is still being poorly managed. These apartments were built with an intention to provide housing for junior research assistants and assistant lecturers, but remain vacant and deteriorate while the MSE and MSP are disputing about management competences. The apartments are either vacant or occupied by illicit tenants, because the MSP launched the last call for applications in 2011. Furthermore, according to MSP data, out of the total of 6120 state-owned apartments, as much as 1140 are vacant, and out of 4387 with commercial value, as much as 1463 are being used illicitly.

Regulated private rental housing market in the RC does not exist, so many are forced into non-contractual arrangements, which makes the positions of landlords and tenants complex. The media use terms such as 'tenants from hell' when describing cases when tenants fail to pay any housing costs and destroy apartments, and tenants complain against cancellation of leases beyond legally defined procedures. These situations are resolved either by negotiation or in courts and our actions are limited to monitoring public policies. In 2018, Amendments were adopted to the Apartment Lease Act (ALA), which were long overdue. The previous Act had been in force since 1996, and on several occasions, the Constitutional Court intervened, which, in 1998, cancelled the provisions imposing the obligatory guarantee of compensatory housing for protected tenants, consequently creating a legal gap. Many proceedings were conducted, cases were brought even to the ECtHR, which in 2014, deciding on the case Statileo vs. Croatia, pointed out to systemic errors, because at that time, owners were burdened with excessive coverage of social and financial costs of housing care for protected tenants (inadequate rent, restrictive eviction conditions and no time limitation of the protected tenant system). Public consultation on the amendments of the ALA, in which the Ombudswoman also participated, finished in June 2016, followed by a long intersectoral reconciliation of positions, and finally, in August 2018, the Act came in force. Dissatisfied protected tenants, an estimated number of 3692 households, claimed that mass evictions would occur, so in December 2018, the Croatian Union of the Tenant Associations filed a petition to the Constitutional Court challenging its constitutionality.

According to the amendments of the ALA, apartment owners will be allowed free disposal from 1 September 2023, and until then, the protected rent will gradually increase. The MCWV and LRGUs will cover the remaining amount to cover the difference between the market prices and protected rent for war veterans and recipients of the GMA, and funds are already earmarked for this purpose. The MCWV received 9 applications, the City of Zagreb 15, Split and Šibenik only three, while in Dubrovnik, Bjelovar and Vinkovci no requests were submitted. Protected tenants hold the pre-

emption rights for apartments owned by the RC and LRGUs, preferential treatment under the SRC rental scheme and subsidized residential loans, as well as in case of admission in elderly people homes. By the end of 2018, the ARETB received 64 applications, of which 19 were for SRC rental scheme, but it will remain unknown by the end of November 2019, if a sufficient number of residential properties will be available for all who expressed interest, until then the Government is obliged to adopt the ALA execution measures.

Social housing

Although large cities and county capitals have a primary duty to ensure financial means for social housing for GMA beneficiaries, not all do so, mostly because they lack available housing units. However, the SCA provides that if cities are not capable to ensure funding for this purpose, the counties should join in according to their capabilities. Taking into account the limitation of their budgets for construction or purchase of new social housing, when planning the budget, the possibility should be considered to earmark funding for rental apartments for these beneficiaries to prevent homelessness, especially in case of families with children. This particularly refers to counties with cities and municipalities that do not grant housing benefits to GMA beneficiaries, which could also be used to pay rent, and more on that topic will be covered in the chapter on social care.

Taking into account the limitation of large city budgets for construction or purchase of new social housing, when planning the budget, the possibility should be considered to earmark funding for rental apartments for these beneficiaries to prevent homelessness, especially in case of families with children.

Despite the recommendations in several previous reports, the Strategy on Social Housing has not been adopted, and the area of socially most disadvantaged housing care has never been legally regulated. There was an initiative in 2015 to include all vulnerable groups on the entire territory of the RC under the scope of the new Act on Housing Care, but this was abandoned with no explanation.

The Strategy to Combat Poverty and Social Exclusion in the RC and the 2014-2016 Implementation Programme of this Strategy brought no positive change in this area, which we indicated in our 2017 Report. Social housing schemes or affordable rent schemes should be used to solve the problems of the most vulnerable social groups and prevent homelessness, especially of the young people leaving alternative care, which we also cover in the chapter on social care. If, in the following years, a special social housing regulation is not adopted, incorporation of this topic in the new SCA, which is planned in 2019, should be considered.

Energy poverty

„We live in a house in which power was disconnected four years ago... The agony we have been living in, my two sons and I, is unbearable. It is very difficult to go about our daily lives. My mother and older children help us a lot. We wash our laundry at their place, shower, boys go there on weekends so that they are not at home in the dark. A neighbour lets us keep our meat in her fridge, and another lets us charge our mobile phones and the car battery. We were relying on candle light for full three years until we discovered how to get light with the use of the car battery. My sons attend school regularly... they have their needs as all teenagers do. They don't have a computer and a laptop, nor TV or internet, they cannot take a shower at home or wash their laundry, they cannot invite their friends, because they are ashamed of the conditions they live in... They are becoming more and more cranky and snappish. They get headaches, have poor grades in school. They are frustrated, because they see no solution. I won't even start talking about myself. I have been collecting illnesses throughout the years, I am unemployed, my bank account is frozen, I have been receiving the guaranteed minimum allowance amounting to HRK 1680 for the three of us... Please help us get out of this agony, and start living normally.“

Various reasons, and very frequently, a case of unfortunate turn on events continue to perpetuate situations which lead some citizens to permanent struggle of ensuring sufficient amount of energy to live a dignified life and achieve physical, psychological and social wellbeing. Some are in a severely disadvantaged position which does not allow them to succeed even by using all available means and capabilities – some have no access to the supply line, because it is not affordable to build or renew it, or the connection is too expensive, which we mention when speaking of discrimination on the grounds of race, ethnicity or colour of the skin and nationality, and among the ones with connections, the poorest often reside in the most energy inefficient homes and spend too much on the bills.

According to the 2017 CBS data, 7.4% of persons live in households which cannot afford adequate heating during winter months, 21% are late in paying utility bills, and 11.4% live in dwellings with leaking roofs, damp, with old and rotten woodworks and floors. Also, 56.2% cannot cover unexpected financial expenditure, and 43.9% meet ends with difficulty. Citizens' complaints provide a powerful image of this experience and remind us that the state should not neglect a single person when finding solutions for their vulnerable position.

The World Health Organization highlights that healthy housing, among other things, also includes the possibility to enjoy good air temperature, lighting, safe energy supply and connection to the electricity grid, protection from damp, mould and other poor conditions. The energy consumption costs linked to housing are also important for human health. Such interpretation not only impacts the greater protection of human rights, but also decreases costs linked to increased need for medical

treatment, lower access to education, decreased productivity and participation on the labour market, social exclusion, environment problems, etc.

7.4% of persons live in households which cannot afford adequate heating during winter months, 21% are late in paying utility bills, and 11.4% live in dwellings with leaking roofs, damp, with old and rotten woodworks and floors. Also, 56.2% cannot cover unexpected financial expenditure, and 43.9% meet ends with difficulty.

With respect to our last years' recommendation, the CIPH announced that in 2019, it would prepare a study on the influence of housing conditions, including energy and energy commodity availability, on the health of citizens, and in 2020, it will try to ensure funding from the MH to carry it out, which we welcome. However, adequate steps were not made in 2018, to adopt adequate documents needed for implementing measures of permanent and systematic prevention of energy poverty. The Fourth National Action Plan of Energy Efficiency 2017-2019 was adopted by the Government with a delay, in late January 2019. This slowed down the implementation of measures – developing capacities for preventing energy poverty and of the Programme for Combating Energy Poverty, as well as the implementation of projects in which the EPEEF plans to invest more than HRK 28 million by 2020.

In late 2018, the Energy Efficiency Act was amended, by introducing an obligation for energy providers to prioritize increased promotion of energy efficiency in energy-poor households. To do that, the Ordinance on the system of energy efficiency obligations needs to be adopted as soon as possible and modalities for adequate promotion should be provided to achieve significant social impact.

Information on the availability and benefits of energy efficiency measures need to be conveyed in a simple and non-discriminatory way, targeting citizens who are suffering or are at a risk of energy poverty.

In 2018, the recommended amendments to the 2014-2020 Programme of energy recovery of family homes were not adopted, but the MCPP announced that the public call for energy recovery of family houses is scheduled for June 2019 and that disadvantaged groups of citizens will be granted maximum possible amount of co-financing, up to 100%, which we welcome, because otherwise these measures would not be accessible to the poorest, who usually do not have the means to cover matching amounts of co-financing. In addition, the simple and non-discriminatory information dissemination on the availability and benefits of these measures needs to be carried out, targeting citizens who are suffering or are at risk of energy poverty, and we recommend using the traditional media and promotion material distribution in highly visible areas, as well as field visits, to reach citizens in remote rural areas and the ones who do not rely on electronic communication.

In the EU, in late 2018, new regulations were adopted from the 'Clean Energy for all Europeans' package, which includes new targets for renewable energy sources use and increased energy efficiency, energy union governance and climate action, placing stronger demands to the RC to

commit to combating energy poverty and to report to the EC on the implemented measures. In this respect, national legislation should be harmonized as soon as possible with the 2018/2002 Directive which amended the 2012/27/EU Directive on Energy Efficiency, prior to the final deadline in June 2020. The EC expressed strong commitment to solving this issue at the beginning of 2018, when the European Energy Poverty Observatory (EPOV) was launched, creating a platform for improved information dissemination on socio-economic impacts of energy poverty in Europe.

Definition of energy poverty should include households which do not belong to the socially disadvantaged group but lack access to energy and face problems in covering energy costs and live in inadequate

In this context, the MCPP highlights that the need to define energy poverty in RC presents a significant challenge for adopting amendments to the 2014-2020 Programme for energy recovery of family homes. On a positive note, the recognition of the need for a broader definition compared to the existing criteria, which positions the problem of energy poverty in the social policy domain and grants the vulnerable customer status only to extremely poor citizens, and thus insufficiently covers the population faced with energy poverty. The definition should include households which do not belong to the socially disadvantaged group but lack access to energy and face problems in covering energy costs and live in inadequate conditions. Therefore, we welcome the interdisciplinary approach in the composition of the Expert Committee, which includes representatives of the MEPE, MCPP, MDFYSP, Hrvoje Požar Energy Institute, relevant CSOs and regional energy agencies, and which is expected to develop a just, measurable and comprehensive definition of energy poverty, in accordance with our recommendations from the previous reports, and we hope this will be done as soon as possible.

While waiting for the intensification of all listed activities in 2019, the only available data on measures for combating energy poverty in the RC are still in the area of social care benefits. So, in 2018, 65,221 beneficiaries of the Vulnerable Energy Consumer Benefit (VECB), received subsidies from the state budget to cover electric power costs, distributing a total of HRK 113,689,955.22 collected from the solidarity fee, which the energy providers pay, and for example, HEP electricity supplier, which supplies 90% of households, in the first 11 months of 2018, paid HRK 149 million. Additionally, according to the 2017 data provided by the counties and the City of Zagreb, additional 40,331 persons received HRK 38,257,340 for heating costs from their budgets, and the LRGUs paid HRK 72,235,854 for the housing costs of 36,875 beneficiaries. These benefits, however, cover only a portion of the citizens facing energy poverty. Inefficiency of expenditure of these funds is also visible from the fact that they do not lead to sustainable improvement of conditions and living standards of the beneficiaries, energy consumption is also not reduced, and energy cost benefits should therefore come after energy efficiency measures. Our recommendations for extending the criteria for acquiring the vulnerable energy consumer status, and extending the VECB scope to gas and heat energy, were not accepted, although we have been making this recommendation since our 2015 Report. The MDFYSP states that the VECB extension to other energy sources will be considered in the new SCA drafting process.

The majority of larger cities, which provided data, express that energy poverty is combated by granting and payment of the housing benefit, according to the SCA, and rarely, in some cases, by granting one-off benefits to cover the costs of electricity or for co-financing the grid connection. Sisak, for example, collaborates with the local Red Cross and a local CSO, and co-finances their activities to combat energy poverty. Čakovec created conditions for property legalization in a Roma settlement, which is a prerequisite for grid connection, and for that, they will try to ensure additional funds, and Zagreb participates in projects with an aim to get insight into the energy poverty rates, to provide identified vulnerable households with energy efficiency measures and draft a policy to combat energy poverty.

In the process of drafting amendments of the VAT Act, we recommended the introduction of a lower tax rate for the supply of gas, heat energy and wood for heating, same as for electricity. However, with a justification that this would impact the state budget negatively, the proposal was not accepted.

In the process of drafting amendments of the VAT Act, we recommended the introduction of a lower tax rate for the supply of gas, heat energy and wood for heating, same as for electricity. However, with a justification that this would impact the state budget negatively, the proposal was not accepted, and an opportunity for making energy more accessible was missed, the state budget income decrease was exclusively considered as a loss and was not analyzed in the contest of investment which could decrease costs to the state budget in other areas, such as health care, labour and the pension system, and so on.

Some of the citizens' complaints revealed that they piled up debt and were exposed to power cut risks due to a lack of understanding of their rights and obligations, a lack of information or possibility to understand them and act upon them, although the ones who contact the suppliers and distributers were provided with all necessary information and means of legal protection. To prevent debt piling up and the risk of power cuts, in the 2017 Report, we recommended the CERA to introduce a measure of end customer protection by adding to their general terms of energy supply an obligation to the suppliers to approach the client directly upon first signs of problems with bill payment and to provide individualized consultation with the use of clear and simple language and provide assistance to cover the bill and achieve optimal energy consumption. Although we repeated the recommendation when the general terms for gas supply were developed, it was only partially implemented, but the CERA will take it into account when the next general terms for gas supply and the general terms for the use of the grid and electricity supply are developed. Additional protection should be

'I've heard that a lot of money must be paid to the power company to get a connection, so it makes no sense for me to try to get it with my pension of HRK 500'

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provided, precluding power cuts under certain conditions, for example in winter time, to the ill, families with children and so on, and guarantee citizens the minimum necessary energy.

The lack of a systematic solution and linking social and energy policy is obvious in the case of citizens who lack funds to pay for the electricity grid connection, especially if it includes additional infrastructure.

The lack of a systematic solution and linking social and energy policy is obvious in the case of citizens who lack funds to pay for the electricity grid connection, and especially if it includes additional infrastructure. While HEP-DSO states that, in 2018, 17,094 households were connected to the grid, no data exist on the number of citizens who cannot afford the connection, or to whom the connection is not available. The grid is being constructed in accordance to available funds and development plans, and the costs of all other activities are covered by future users, except in cases when it is covered through other sources of financing regulated by contracts, such as in 2017, when for connecting some households in the area of special state concern HEP-DSO signed a contract with CSORHC. The connection prices range from minimum HRK 7762.50, through average HRK 12,420.00 to maximum HRK 32,602.50, and in the City of Zagreb it amounts to HRK 16,100.00 on average. If we take into account that exemption from payment for the connection to the power grid is not an option, it is clear that a systematic response should be developed, avoiding the present situation when co-financing of connections depends on the good will and capacities of the LRGUs, and exceptionally, through donations.

In 2018, we witnessed civic initiatives and humanitarian campaigns, which were, among other things, focused on combating energy poverty, for example houses were refurbished, solar panels installed. Civic solidarity is a commendable response to the needs and an indicator that fast, simple and efficient solutions do exist, which improve quality of life to citizens who live in conditions bellow human dignity. However, the proactivity of the public administration is necessary, on all levels, and provision of fast and systematic solutions, that are complemented, and not substituted by civic actions.

Therefore, we are encouraged by the EPEEF claims that they plan to co-finance measures for renewable energy sources use, and solar panel installation to the socially disadvantaged households under favourable conditions.

The RC must intensify the efforts towards developing a comprehensive solution to the energy poverty problem, especially with respect of long-term measures, which we will continue to monitor annually, and insist upon effective public policies for energy poverty eradication, expecting from all bodies to carry out activities and

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use available funding to fulfil their obligation to ensure access to energy to all citizens, without discrimination and irrespective of the profitability criteria.

Access to water

„Our village has 10 households and 35 residents... and currently we are in a very bad position in terms of the conditions we are living in... Our village has no prerequisites for normal life, we have no WATER SUPPLY, COMMUNAL WASTE COLLECTION AND DISPOSAL, PUBLIC LIGHTING, TELEPHONE LINES, internet and only half of the road is paved, and the other part of the village has a gravel road..“

The climate change, pollution, urbanization and urban growth, makes drinking water a strategically important resource. In addition, drinking water and sanitary water are the constituents of decent housing.

The UN 2030 Agenda for Sustainable Development states that supply of affordable wholesome drinking water requires investments in infrastructure, sanitary facilities and enhancement of hygiene on all levels. In the process of revision of the Directive on the Quality of Water Intended for Human Consumption, the EC requires improved access to water, especially to the vulnerable groups, which in practice, means installation of water access equipment in public areas, launching public information campaigns on water quality and promoting availability of drinking water in public spaces. Water is still not equally accessible, especially to the citizens in rural, unpopulated and poor areas and on the islands, where no water supply system exists, and their installation is economically unfeasible. The problem often lies in the price of the connection, which is unaffordable to some citizens, and others have no access to water because they cannot pay the waterworks bills regularly.

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Often the risk of privatization of water supply is mentioned and the increase of prices because of great water loss in the system. All these problems encouraged us to organize a round table in September 2018, on constitutionalisation of the right to drinking water and water for sanitary purposes. Namely, the right to water is a prerequisite for dignified life, but it does not include unlimited quantities or free of charge water, but the right to water for basic needs, and given the importance of water for human life and health, it should be constituted as an universal and fundamental human right.

According to the MEPE data for 2017, 94% of the population had access to the public water supply system connections, but in places such as Lipovac, Stara Kršlja and others in the Rakovica Municipality, water supply is provided by the use of water carrier trucks, which presents financial and physical problems for the residents. To the citizens with no access to water supply connections, the

municipality ensures only two water carrier truck deliveries annually, and the remaining water must be paid by the citizens, amounting up to HRK 500 per tank. For these citizens, the price of water is 80 m3, while the ones connected to water supply system pay HRK 12. At the same time, to the residents of Poljanak in the Municipality of Plitvička jezera, who also have no connection to the water supply system, firefighters deliver free water whenever they need it. The municipality pointed out to numerous problems, inter alia, they report of summer water reductions and decreased water inflow to ensure sufficient amounts for tourists in the Plitvice Lakes National Park, and they doubt that additional installations would make a difference if the underlying problems were not solved. The implementation of the 'Plitvice Lakes Agglomeration Project' aimed at solving the problem with sustainable water supply and drainage presents a significant financial burden. On the other hand, the City of Knin, in late August, following our recommendation, purchased their own water carrier truck for supplying all surrounding villages which were not connected to the system and are charging half the price compared to the private provider which supplied the villages in previous years. In the City of Vodnjan, most of the villages are connected to the water supply system, and to Mednjan and stancia Cecilija, firefighters deliver water financed by the City.

In 2018, in Slavonski Brod, citizens experienced a drinking water cut, because of increased hydrocarbon values in the waterworks. Delivery with water trucks was organized, and the CRC distributed bottled water. However, despite the investigation, the cause of this phenomenon was not detected, and the citizens were told that the health impact was insignificant, without any detailed explanations. At the end of the year, another case of wholesome drinking water pollution was recorded with increased values of total coliform and E. Coli, of the local waterworks owned by the Saborsko Municipality in the Karlovac County which does not meet the special criteria for technical equipment and number of staff. The citizens were informed of the pollution by the municipality, a notice was posted on the bulletin board and on the internet page, but this type of informing, especially for the elderly, was inadequate, and they continued to consume the water. Because of water pollution in the area of Komletinci, Privlaka and Korođ, which included unacceptable values of arsenic, iron and ammonia, the Municipal State Attorney's Office in Vukovar pressed charges against the Vinkovci waterworks and sewage company, because from the period between the beginning of 2013 to end of 2017, it knowingly distributed contaminated water, and never informed citizens about that, who were consuming it and paying the same price as for wholesome drinking water. The problem was solved by connecting to the Regional water system in September 2018, but the court proceeding is still ongoing. Also, the citizens of Split and surrounding areas still encounter the problem with drinking water murkiness, which is in the process of being solved by the management of the Split Waterworks and Sewerage Company by the purchase of new equipment. The presented cases included various types of contamination, but almost in all of them, the public was not adequately informed. Also, the health risks were neglected, while alternative ways for water delivery were usually delayed or too expensive.

The precautionary principle is not being applied adequately, systematic prevention is lacking and long-term effects of unhealthy water to health are being ignored.

The impact of unhealthy water consumption to the human health is still not monitored systematically. Apart from the CIPH Assessment of the health status of the population of the Vukovar-Srijem County on account of potential health impacts of arsenic in water for human consumption, we found no other reports of monitoring and prevention of possible negative impacts to the health, or any health protection mechanism, which needs to be established. However, the mentioned Assessment did not find significant morbidity or mortality form cardiovascular diseases, malignant tumours, and lung or bladder cancer which could be linked to arsenic contamination, instead, it identified an increased risk of morbidity due to long-term exposure to higher arsenic concentrations. On the other hand, this was a case of long-term exposure, and the citizens claim that every other house has a cancer patient.

The precautionary principle is not being applied adequately, systematic prevention is lacking and long-term effects of unhealthy water to health are being ignored. The lack of prevention and belated response aiming at health protection are endangering the right to health. Local water supply systems present a problem because they are not managed by legal entities registered for public water supply, which prevents the sanitary inspection to act within administrative or initiate infringement proceedings. In addition, the monitoring of water for human consumption is not performed uniformly and depends on the financial resources of each county.

The water sector is fragmented, and losses in public water supply systems still amount, on average, to 45 to 50% of the total volume. Water supply by water carriers is under-regulated, which is evident from the examples we listed, as well as the minimum household quantities for basic necessities, and still on occasions the water supply is cut due to unpaid bills. Amendments to the regulations in the area of water management, the Water Act, Water Management Financing Act, and adoption of the long-awaited Water Services Act, were planned for the fourth quarter of 2018, and started in early January 2019. We are encouraged that during the public consultation process, the announcements were made by the MEPE to implement our recommendations from the 2017 Report, it can be confirmed that they intend to make efforts to regulate the problem of access to water services we have been pointing out to for years. In addition, Croatian Waters have launched the Programme for co-financing the decrease of loss in water supply systems and earmarked HRK 100 million for this purpose, so that more observable results are expected in 2019.

The manual 'Challenge: Save Water – a Guide to Smart Water Management' presented in 2018 by eight European islands, two from France, Greece and Ireland each, and Vis and Lastovo, recommends the use of knowledge, experience and creativity of the experts, professionals and the local population in order to solve water access problems. It was the teamwork of the islanders who found that 200 million litres of water can be saved, which also decreased electricity consumption by 470,000 kWh and carbon emissions by 42,000 kg. If we were to transfer their knowledge to all 2136

European islands, the savings of water, electricity and greenhouse gasses emissions would be significant.

Recommendations:

88. To the Ministry of Construction and Physical Planning, to develop mechanisms to prevent abuses of the programme of social subsidized residential construction;
89. To the Ministry of State Property, to process their caseload in appropriate deadlines and provides information to the citizens;
90. To the Ministry of Science and Education and Ministry of State Property, to implement necessary measures to put in function apartments in the Zagreb neighbourhood of Borovje, and rent them to the ones whom they were intended for;
91. To the Ministry of State Property, to develop criteria for selling apartments to long-term illicit tenants, taking into account their social status and financial capacities;
92. To the Government of the RC, to draft the Housing Strategy which would include socially disadvantaged vulnerable groups;
93. To local and regional self-government units, to initiate the transfer of real estate ownership from the RC, for the purpose of sale or award of lease contracts to persons who fulfil the criteria;
94. To the Government of RC, to develop the definition of energy poverty and establish an appropriate measurement and monitoring system;
95. To the Government of RC, to urgently harmonize national legislation with the Directive 2018/2002 on the amendment of the Directive 2012/27/EU on energy efficiency;
96. To the Ministry of Environment Protection and Energy, to cooperate with the Ministry of Demography, Family, Youth and Social Policy and prepare the amendment of the Regulation on criteria for awarding the vulnerable energy consumer status, by extending the criteria;
97. To the Ministry of Demography, Family, Youth and Social Policy, to enable the realization of the right to vulnerable energy consumer benefits for consumption of gas and heating energy;
98. To the Ministry of Environment Protection and Energy, under the scope of water services reforms, to provide conditions and criteria for cancellation/limitation of water supply, the minimum necessary water quantities which cannot be withheld, criteria for disconnecting from water supply buildings and supply by water carrier trucks.

3.13. UTILITY MANAGEMENT AND PUBLIC COLLECTION OF MIXED AND BIODEGRADABLE COMMUNAL WASTE SERVICE

„In Daruvar, on the Croatian Defenders' Square, last year in September, an open-air museum was set-up (one tank and two cannons). The situation is awkward both for you and for us, more specifically, for me and my neighbours who live in close vicinity to the open-air museum and are under direct psychological impact. The tank cannon is pointing directly to my house over the roof of the first house. No person would enjoy experiencing this situation daily, whether being neutral, against or for. I simply ask for the tank to be rotated by ninety degrees to face the park or the road, so this problem does not target anyone specifically."

After more than twenty years and eighteen amendments, which made it hard to read and difficult to implement, the new Utility Management Act (UMA) was adopted. Apart from the Ombudswoman's Office, numerous citizens, LRGUs, experts and the Association of Cities and Municipalities participated in its drafting. Although it entered in force in August 2018, the Constitutional Court, as early as October, cancelled the provision on exempting the RC from paying communal fees for spaces within military owned spaces, because it did not find anyone whose interest this would serve, since the communal fee income is used to finance maintenance and construction of communal infrastructure and other public facilities, and, therefore, all communal fee exemptions must be justified with significant public interest.

Utility services are public services financed from LRGU budgets, and an opportunity should have been taken to include in the UMA the regulation of extra-institutional supervision over the ones who perform the services, and through a participatory model, include citizens, experts, unions, CSOs and all who are directly interested in the efficient performance of these services and public property management, in the monitoring of the UMA execution, which was our recommendation in the 2017

Report. Not only was the control not regulated in such a manner, but the parliamentary control was abandoned, as well as the obligation for utility companies to deliver to LRGU representative bodies their operational plans, performance reports and financial reports.

The UMA regulates the implementation of numerous principles: public interest protection, non-profitability, protection of vulnerable categories of citizens and other, which need to be applied to utility services and determine the value and standards relevant for appropriate interpreting of the legislation and filling in legal gaps. Because water supply, drainage and waste collection, according to the UMA, are not considered communal services, these principles are not applied to them, and thus, one part of the public think that they are more prone to privatization, price growth and quality deterioration. Some mayors and CSOs claim that utility management should remain undivided, as it is already perceived as such by the majority of citizens.

Utility services are public services financed from LRGU budgets, and an opportunity should have been taken to regulate extra-institutional supervision over the ones who perform the services, and include citizens, experts, unions, CSOs and all who are directly interested in the efficient performance of these services and public property management.

The positive UMA amendments refer to the legal status of communal infrastructure which cannot be changed by other laws, protecting the infrastructure from foreclosure and insolvency. The novelty is introduced in the area of communal fee income, which can, under certain circumstances, and by decision of the representative body, be used for other important purposes serving the public needs of citizens, such as maintenance and improvement of pre-school, school, healthcare and social service facilities. On the other hand, ceilings for the maximum duration of concession for performing utility services have been lifted, which opens space for abuse. A legal gap was filled with respect to the reimbursement of paid communal contribution if the construction was not realized, since some LRGUs returned these funds to investors, and some refused to and gained undue profit.

In 2018, citizens complained about public space maintenance, maintenance of buildings, public lighting and parking organization. They were often dissatisfied with the priorities and ways how problems were solved but were unaware of the institute of direct participation in decision-making regarding matters of local significance. The MPA informed us that it would accept our recommendation from the 2017 Report and provide citizens with more information on how and when to use this institute, but no information can be found on their website yet. On the other hand, mayors were pointing out to the lack of municipality funding for infrastructural investments, and to the insufficient capacities for project implementation and management, due to budgetary limitations for salaries which prevents them from employing additional staff. Also, some recognized that, in order to operate efficiently, public administration needs to communicate and collaborate with the citizens, so, for example, in Knin, the 'E-municipal Services Officer' was introduced, and citizens can use it to report illegal waste dumps, inappropriate graffiti, etc.

Well-designed and maintained public spaces provide not only positive visual identity, but also reflect the collective values of residents, and may be an important element of the tourist offer. Because of that, experts and citizens should be consulted on design and function of public spaces, special attention should be paid when considering requests for and placement of military displays: tanks, cannons, and similar items in public urban areas, especially amid family homes, because, as we were informed by one complaint, they can be very disturbing. The atmosphere created and its message can be ambiguous, and does not necessarily evoke emotions of patriotism, strength and pride, as such values could be promoted differently and more appropriately and with dignity. In this specific case, the city administration expressed readiness to solve the problem in cooperation with the MD and the complainant, but we received no information if anything has actually been done.

Mayors are pointing out to the lack of municipality funding for infrastructural investments, and to the insufficient capacities for project implementation and management, due to budgetary limitations for salaries which prevents them from employing additional staff.

The EC in its 2019 Report on Croatia indicated that public transport was being developed only in several larger cities, while others lack basic infrastructure, and the existing one cannot meet the needs of its residents, let alone cope with seasonal population fluctuations. Parking in the cities, especially on the coast and during the tourist season, presents a grave problem for residents, tourists, delivery vehicle drivers, and they pay less attention to where they park or if their vehicle is creating problems for others. Parking infringements are fined, and in certain cases the vehicle is towed, however, prior to that an authorized person needs to make evidence of its location by taking a photo, drawing or video recording. Because of the fact that the implementing legislation is not harmonized with the Road Safety Act, and the methods for collecting admissible evidence are not provided, different interpretations exist, which should be cumulated or alternated. With respect to that, we have proposed the amendment of the Ordinance on conditions and methods for conducting control of irregularly parked vehicles and conditions for conducting towing activities of irregularly parked vehicles, which the MI accepted and amended the Ordinance.

Nevertheless, most of the complaints referred to the work of municipal service control officers, who, among other things, can order demolition of deteriorating buildings which they identify as detrimental for the environment and safety, and impose the demolition costs on the owners. In our 2017 Report, we reported of the unequal practice regarding the definition of these costs, especially for buildings destroyed during the war. Since some cities cover these costs on their own, some with the use of state assistance, we proposed to the Government to find a co-financing model, but we received a response that funds for this purpose cannot be earmarked. In 2018, we received complaints which made evident that citizens tried to call upon our recommendation for administrative procedures, and asked for co-financing of these costs, which shows that this is an important existential matter for them. It should be considered that these buildings are often the ones which were not covered by post-war reconstruction schemes, and are owned by Serb minority members who continued living elsewhere, and whose chances for return are further impaired by demolition of these buildings without their consent. This cannot be recognized solely as a matter of

environment and spatial management, because removal of privately-owned buildings which were destroyed without any accountability of their owners and charging them for removal costs without their consent on grounds of the buildings being worn down, impairs the re-establishment of trust and revitalization of war-torn areas.

Municipality service control officers are employed by LRGUs and control the execution of many regulations. It is sometimes very challenging to meet the legal requirements for education, knowledge and skills and personal characteristics of these officers, especially in smaller municipalities employing one person. So, for example, we acted upon a complaint of a municipal service control officer who was worried for his job position, because of his fear of dogs, due to the fact that some tasks assigned to these officers according to the Animal Protection Rights Act include direct physical contact with animals. The officers who were employed prior to the adoption of this Act could not have known that this would be a part of their job, and they were not trained for animal handling, which creates problems in organizing work and makes efficient execution of the Act uncertain. Therefore, we have pointed out that primarily the heads of competent authorities hold a responsibility to collaborate with the officers, unions and others, and find ways to reconcile these contradictions and ensure quality execution of laws and raise the sense of safety of the officers performing the job. In addition, municipal service control officers need to familiarize with and correctly interpret numerous laws, regulations and principles, such as proportionality between protecting the rights of parties and the public interest.

In this context, the situation of the citizen who, in between two placements in the homeless shelter, lived in a trailer located on state-owned land, which was removed by the order of the municipal officer, should be considered. The complainant claimed that he had not been informed in a timely manner of what would be done to his trailer and possessions and found about the removal several years later. From the response received from the municipality and the municipal officer, we found that they had contacted the social care institution, but it is not clear whether the complainant was recognized as an intervener in the administrative proceeding and given formal possibility to participate in the proceeding to protect his interests, including his right to respect of private and family life and home, which could apply to the trailer in this case. Since no formal education exists for municipal control officers, it is necessary to provide continuous training and clear working instructions.

Public collection of mixed and bio-degradable communal waste

Almost all LRGUs (539 out of 555) adopted decisions on providing public service of collecting mixed and bio-degradable communal waste. These decisions should allow the establishment of a quality and economically feasible system, but the level of existing infrastructure for efficient waste separation (number of containers, vehicles, recycling yards, etc.) is unequal, and a number of LRGUs do not have a fully established and effective collection system. This goes for the city of Zagreb, especially, when, due to issues which occurred in the process of signing/executing contracts on plastic waste collection waste collection stopped for several weeks, and citizens placed plastic waste in other

containers leading to the creation of many illegal waste dumps, overwhelming the municipal officers who could not act promptly.

Citizens' complaints continue to reveal that citizens are still uninformed on how to protect their consumer rights, because they approached the media and the Ombudswoman's Office, instead of using the existing legal means and accessing adequate protection in due time. We pointed at the lack of awareness and consumer education in the area of public services in our last year's Report, and the MEEC cooperated with other stakeholders and issued the 'Consumers Manual' in March 2018, which partially fulfilled our recommendation. However, since the public services, as interpreted by the Consumer Protection Act, include public water supply and drainage, chimney sweeping services and collection of mixed and bio-degradable waste, and the current Manual does not cover these areas, it should be amended.

The Regulation on communal waste management defines the pricing structure of the public collection of mixed and bio-degradable waste consisting of the price of the public service multiplied by quantity of mixed communal waste collected, the price of the minimum public service (MPS) and the amount of contractual penalty clauses. According to data by the Croatian Consumer Protection Association, on average, the MPS accounts for 75% of the total price (In Sinj 47%, Crikvenica 83.02%, Hvar 79.82%, Krk 64.33%, Osijek 71.76%, Pag 92.65%, Pula 69.54%) and citizens have been complaining mostly about these, according to their opinion, illegally defined rates. The MPS is disputed also by weekend-house owners, who argue that they should not pay for the infrastructure which they use for only one part of the year. Obviously, without setting the ceiling MPS rate and a clear definition of what it includes, disproportionality occurs in the price composition, resulting in the fact that the costs of system functioning exceeded the costs of managing collected quantities of waste, and additional concern is caused by the fact that some cities plan significant employment of additional staff which they plan to finance from the price of the service. This undermines the polluter pays principle, which is incongruent with the spirit of the Sustainable Waste Management Act. The distribution should reflect real costs of waste production and management with respect to environment protection. Proceedings of legality control were initiated against some LRGUs because of how MSP was defined in their decisions. The legality of the regulations is being assessed by the Constitutional Court, which further limits our actions upon complaints.

Apart from improving the operation of the waste collection system, additional activities are necessary to change the citizens' mentality, because irresponsible individuals continue to avoid coverage of costs, dispose waste in public areas, not caring about the environment protection and health of other citizens. Without witnesses, physical barriers, surveillance cameras or municipal service control officers, it is impossible to identify these offenders, and repeated disposal of more waste in previously cleaned and recovered areas perpetuates costs and causes dismay.

Recommendations:

99. To the State School for Public Administration, Ministry of Public Administration and Ministry of Construction and Physical Planning, to organize training for municipal service control officers;
100. To the Government of the RC and local government units, to implement necessary measures to make the procedures of removing destroyed buildings, especially the ones damaged by war activities, to be carried out with consent of the owners and partially financed from the state budget and the local government unit;
101. To the Ministry of Economy, Entrepreneurship and Crafts, to ensure additional funding to inform citizens of their rights and to provide information about all public services in their 'Consumers manual'.

3.14. UNEVEN REGIONAL DEVELOPMENT WITH SPECIAL FOCUS ON RURAL AREAS

,,...the county has no actual data on key challenges that inhabitants of rural areas and islands face when exercising their rights. We believe that local self-government units have such data as they have direct contact with their fellow residents due to the nature of tasks they have been entrusted with pursuant to the law "

In 2018, we continued with our field work. We visited the Međimurje County, Split-Dalmatia County, Karlovac County, Istria County and Šibenik-Knin County. During our visits, we talked to heads of counties and local units, representatives of SWCs, CSOs, LAGs and representatives of national minorities, as well as with citizens, in order to identify challenges they are facing in their everyday lives when exercising their human rights. Inadequate health and social services, too remote institutions, an inadequate public transport network and the lack of jobs are still part of everyday life of people living in rural areas. At the same time, almost everybody we talked to pointed out emigration and the challenges that local communities face as a result of it.

Legal Framework

The legal, institutional and strategic framework for managing the regional development policy is defined by the Regional Development Act of the RC. During 2018, based on the Conclusion of the Government of the RC, which accepted the Proposal for the Reduction of the Number of Agencies, Institutes, Funds, Institutions, Foundations, Companies and other Legal Persons with public authorities and which envisaged the dissolution of the Regional Development Agency, the Act on the Amendments to the Regional Development Act was adopted. This Act stipulates that the MRDEUF shall be responsible for tasks that the Agency carried out, including the establishment of efficient coordination between regional coordinators, who play an important role in encouraging the development on the county level. However, as the Act entered into force on 1 January 2019, its effects are yet to be seen.

In 2017, the Croatian Parliament adopted the Regional Development Strategy by 2020, while the Government adopted Action Plan 2017-2019, whose implementation should help mitigate regional differences. Its implementation started only in 2018, when the MRDEUF, together with experts of the Institute of Economics, developed and introduced a system of monitoring and reporting on the effects of the regional development policy. However, its results will be available during 2019 only. As the Action Plan will end in 2019, it is important to start developing a new one as soon as possible, based on results of impacts and challenges identified during the implementation of activities, which should include a large number of stakeholders, in any event LRGUs, CSOs on the local and regional level, representatives of national minorities and LAGs to name some of them.

During our visits to counties, nearly all stakeholders highlighted that they were not sufficiently involved in decision making processes that influence their obligations and everyday lives of citizens. It is encouraging, therefore, that our proposal was accepted when adopting the Assisted Areas Act which now stipulates that LRGUs with the assisted areas status and other key stakeholders contributing to their development, such as CSOs, LAGs and national minority councils, take part in the adoption of the Sustainable Social and Economic Development Programme for Assisted Areas, which will elaborate measures and projects aimed at facilitating development. The 2018 Mountain Areas Act stipulates the same when referring to the adoption of the Mountain Areas Development Programme.

Regional Differences and Demographic Indicators

The CBS data on the GDP by counties for 2016 confirm significant disparities. The Croatian GDP per capita amounted to HRK 84,207. As in the previous year, the eastern counties recorded the lowest figures: Virovitica-Podravina (55.3%), Brod-Posavina (56.2%), Požega-Slavonija (56.7%) and Vukovar-Srijem with 58.6% of the national average. Besides the City of Zagreb, only the counties of Istria, Primorje-Gorski Kotar and Dubrovnik-Neretva recorded a GDP per capita above the average. The ratio between the most developed and the most undeveloped county also confirms significant regional disparity: the GDP of the City of Zagreb is still three times the GDP of the Virovitica-Podravina County. Despite a number of measures, the difference still remains the same. In 2015, the GDP of the Virovitica-Podravina County amounted to 31.4% of the GDP of the City of Zagreb, and in 2016, 31.7%.

The distribution of population is also uneven. As studies show, there is an interdependence between the regional development level of certain parts of the country and spatial population distribution.[8] Data on the development and demography of individual counties show that 33% of the territory and 16% of the population belong to group I (least developed counties) and only five of them, which account for 15.82% of the territory and almost 42% of the population to development group IV (most developed counties). These data confirm, among other things, that because of such regional development disparities the population is migrating from less developed parts of the country to more developed ones, which consequently leads to an even greater disparity. CBS data show this as

[8] Dane Pejnović and Željka Kordej de Villa, *Demografski resursi kao indikator i čimbenik disparitеta u regionalnom razvoju Hrvatske*. *Društvena istraživanja*, Zagreb issue (24) 2015, no.3, p.321-343

well. According to these data, only the City of Zagreb and the Istria County recorded a positive migration balance in 2017, while all other counties recorded a negative one, with the most negative in the counties of Vukovar-Srijem and Osijek-Baranja. The highest number of persons who went abroad are the young working population aged between 20 and 39, which is discussed in more detail in the chapter on the demographic crisis, migration and human rights. At the same time, the ageing of the population continues, so that in 2017, the average population age was 43.1 years, which makes Croatia one of the oldest countries in Europe. When compared by counties, the most inhabitants over 65 years of age in relation to the overall population live in the Lika-Senj County (24.7%) compared to 17.6% in the Međimurje County.

Experts warn that the number of those who went abroad is even higher because the CBS takes into account only birth-rate data or the balance between the number of deaths and births, and official migration data, without having registered those who went abroad without an official notice of departure, so that heads of local and regional authorities estimate the current resident number differently: by the number of distributed dustbins, number of children in kindergartens or schools and number of patients registered with general practitioners.

Research carried out in 2018 shows that, as the most common reasons for migration, citizens mention the poorly organised and managed state, corruption and the employment of obedient party members as we poor prospects and a feeling of hopelessness, which we also discuss further in the chapter on the demographic crisis, migration and human rights. This was also confirmed in meetings with citizens and CSOs that we held as we visited counties, but also with heads of towns and municipalities who emphasised how difficult it is to run a town or municipality for those who are not members of the ruling party in the county.

Many LRGUs lack the financial, administrative or human resources needed to carry out responsibilities assigned to them and cannot provide their citizens the same level of social protection as in more developed areas, like the City of Zagreb. Although we have been pointing for years that certain towns and municipalities are not able to cover housing costs or do it only partially, nothing has changed. We discuss this issue in the chapter on social housing. The disparity in service availability is visible, for instance, in financing the system of early and preschool education that falls almost exclusively within the competence of LRGUs. According to the research[9], despite the fact that the earmarking of funds for early and preschool education grew much faster in less developed LRGUs, so that the increase in earmarking in those belonging to group I amounted to 148.6%, and in those belonging to development group V to 49.5%, this was not enough to reduce the differences in their share of preschool education expenses in

As many as 145 towns and municipalities have no regular preschool programme. The number of children included in it is extremely low in the least developed counties with the highest depopulation at the same time. This confirms that depopulation is closely connected with the lack of public services.

[9] Dobrotić, I., Matković, T and V. Menger (2018) *Analiza pristupačnosti, kvalitete, kapaciteta i financiranja sustava ranoga i predškolskog odgoja i obrazovanja u Republici Hrvatskoj*, MDOMSP.

their respective budgets. Consequently, there is still a disparity in the development of the kindergarten network, with great regional differences. As many as 145 LRGUs have no regular preschool education in their respective areas. The number of children included in it is extremely low in the least developed counties, mostly in those in Slavonia and central Croatia. These are the very counties that recorded the highest depopulation, which only proves that depopulation is connected with the unavailability of public services as well.

The same goes for different measures that LRUs prepare in their response to demographic challenges, such as new-born allowances, co-financing of schoolbooks and public transport, student scholarships, social services for the elderly, which largely depend on their human and financial resources. As less developed units cannot provide such level of social protection, differences are becoming greater additionally.

(Un)availability of Public transport and Utilities

In almost all meetings held in counties, towns and municipalities, public transport, almost non-existent in some areas, has been recognised as one of the key challenges that people living in rural areas face. The decreasing number of public transport users has contributed to this problem and resulted in the closure of certain lines or more expansive fares, especially at the school year end, which makes the availability of services provided in towns only and life itself even more difficult. Citizens complain that in such cases the taxi service, often (too) expensive for them, is the only solution left. The lack of public transport is one of the reasons why people migrate from rural areas to towns. The mayor of Cista Provo municipality highlighted that many, instead of commuting, decide to settle in Split permanently. Other LRGU heads are well aware of this problem too, as they often have to choose between unprofitable lines and the needs of their inhabitants, such as elderly people or those who cannot drive and have to manage on their own to get to the town, the doctor or the social welfare centre. An example of good practice is the project by the municipal Red Cross organisation and the City of Duga Resa, which provided transportation for the elderly aimed at meeting their everyday needs such as visiting a doctor, paying bills, shopping on their own and other activities, which enables them in this way to remain living in their homes as long as possible.

LRGUs' heads also pointed out the problem relating to the maintenance of local roads after frequent heavy rainstorms causing floods in the Karlovac County or in mountainous areas, for example. Poorly maintained roads make it difficult to reach (older) inhabitants not living close to the main road. Especially deprived areas are those populated with singles, mostly women, such as Gornja Trebinja and Popović Brdo in the Karlovac County.

Settlements in rural areas often have insufficient public utilities. Their public water supply network coverage is not as good as in urban centres and they have practically no sewerage network. Those LGUs that plan the construction of the water supply system or have started with it already sometimes question its profitability due to a small number of residents/users. In settlements where new public water supply system has been built, a part of households is not connected to it as they cannot afford

it. A part of LGUs recognised this problem and included connection fees for households in project proposals which is a good thing by all means..

(Un)avaiability of health services

„We live in Čabar, a beautiful town covering an area of 28,000 hectares with less than 3,000 inhabitants isolated from main traffic routes so that we need 50 kilometres to reach civilization. This means that we live on a reservation. Each day we have been increasingly deprived of health care services. After doctor A. left Tršće, doctor L. replaced him, who soon left for maternity leave and Tršće had no doctor. Since October, a doctor from Čabar has been working in the outpatient unit in Tršće (he covers three outpatient clinics, Čabar, Prezid and Tršće) on Mondays afternoon so that Čabar has no doctor working in the afternoon as he works in Čabar on two days (Wednesday and Friday) in the morning, which is not enough. On other days, the doctor works in Prezid, which is 15 kilometres away and we have neither bus lines nor any kind of transportation. Besides that, whenever a nurse working in the general practitioner's office is on annual or sick leave (which is quite often), a health visitor or a nurse accompanying medical transport replace her so that we are left with no domiciliary care or nurse accompanying medical transport. This is the case in all outpatient units in the Čabar area. The nurses mentioned replace all nurses in the Čabar area, but also in the whole area of Gorski kotar. Only a few health care services are available to us, but none in this way. From 21 March 2018 to 28 March 2018, the doctor in the Čabar outpatient unit was not working, and there was no replacement or an official notification of his absence. All of us who took annual leave to have a medical examination were not able to do so. We are therefore outraged by the way health care in the town of Čabar is organised."
Čabar, 27 March 2018

Unavailable health care is yet another challenge that the rural population has to deal with. According to available data, the lack of primary health care teams in relation to the required number, determined by the Public Health Service Network, is felt in all services, but most strongly in the four basic ones: general/family medicine, with 118 teams missing; health care for preschool children, with 51 teams missing; health care for women, with 59 missing; and dental care, with 259 missing, which is to be discussed in detail in the chapter on health. According to the Demographic Atlas of the Croatian Medical Community, there are insufficient general practitioners in the counties of Virovitica-Podravina, Bjelovar-Bilogora, Koprivnica-Križevci and Lika-Senj in particular. At the same time, physicians are overburdened with too many patients. It is also worrying that in the eastern health region, physicians work overtime more than their colleagues in other regions, which points to the lack of personnel in eastern Croatia.
Citizens and CSOs we talked to also pointed out the disparity in appointment making procedures in hospitals, which makes it more difficult for them to have an examination, especially considering insufficient public transport. They also pointed out unsatisfactory premises and poorly equipped surgeries in rural areas and on the islands. We required from the MH the information as to whether community health centres meet the requirements of the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare, and which measures have been taken so far to eliminate possible deviations. However, we received no reply to these questions. This issue is also discussed at greater length in the chapter on health.

Although some counties, towns and municipalities have measures by way of which they try to respond to these challenges, such as providing accommodation or equipping general practitioner's offices, they produced no significant results. In the next 10 years, over 4,000 physicians will retire, but, at the same time, the highest number of doctors of medicine so far will graduate from schools of medicine. Therefore, it is of utmost importance to think of measures ensuring the availability of health care in both rural areas and on the islands. ESI funds cover projects aimed at improving the availability of health care to citizens and at equipping general practitioner's offices, but with regard to the lesser capacity of certain LRGUs it is important that the availability of health care should not primarily depend on their project proposal preparation capacities.

LRGU heads pointed out the problems relating to emergency care and that in some LGUs, like Tisno, there is no T1 team, not even in the tourist season, but only T2 team with no physician. This means that patients will not receive equal treatment or the service of standard quality provided by law. It is important, therefore, when adopting the Emergency Medicine Network, to ensure uniform availability of emergency care in accordance with the new Health Protection Act. Citizens also pointed out that they had to wait too long for an ambulance. On the other hand, data by the Croatian Institute for Emergency Medicine show that in 80% their emergency teams arrive within 10 minutes in urban areas, and within 20 minutes in rural areas. However, they did not provide us with data by individual counties or whether a team with or without a physician is sent which largely defines the service to be provided. It is also not clear from their answer in which period does the paramedic team arrive in the remaining 20% of interventions.

(Un)availability of Social Services

Social welfare centres should be places for providing support and care to enable the inclusion of the most vulnerable groups in society. Citizens and LRGU heads, too, often expect that the centres will offer some new and creative solutions in response to difficult situations they encounter. A study on the access to public services and users' satisfaction that the World Bank conducted in five Slavonian counties in 2018 also included users' satisfaction with the work of centres, and revealed that 11% of inhabitants used their services and gave them 5.09 as the average mark. Only the CES was given lower marks than social welfare centres. Some 33% of the respondents were either very dissatisfied or dissatisfied with their service, while 35% of them found that SWCs favour certain persons. In the light of such indicators, it is obvious that citizens do not perceive them as places where quality social services are provided. Some users fear the loss of their rights or their too restrictive interpretation so that some of them, who are particularly vulnerable, never seek their support.

In order to identify good practice examples, but also problems within the system, we talked during our field work with heads and employees of 15 centres in ten counties. Almost everybody highlighted the shortage of experts due to the ban on the employment of new staff which makes them overburdened; furthermore, an insufficient number of old and unreliable vehicles which makes their work more difficult as they often cannot visit their users in mountainous or isolated areas; difficult access to users living on the islands due to poor traffic connections with the mainland whereby they can rely on the support by the police in emergency cases only; some centres are situated on inadequate premises; they have no waiting room, no room for children, they are inaccessible to

disabled persons or the elderly with mobility impairments, they have to work on several locations and alike. Although, according to data of the MDFYSP, 46 vehicles and over 1,000 computers were delivered to 44 centres in 2018, difficulties that employees talked about show that this is still not enough.

Besides that, almost everybody pointed out a growing number of public authorities, insufficient support and training and the fact that they are overburdened with administrative work which leaves them no time to work with their users. They claim that "the system is slow so that, sometimes, they cannot help the needy", but also that they themselves have not been proactive enough perhaps. They say that, in some centres, experts work with twice the specified number of users, and that they are additionally appointed as guardians as well. Therefore, it should be considered as to whether prescribed standards are in line with working with the ever growing public authorities and tasks that they perform and to try to harmonise them with European standards.

The social welfare system reform that has been implemented for years produced no significant steps forward, especially when it comes to the organisation of social welfare centres work and the reduction in their public authorities, numerous tasks and administration work, which would enable their employees to dedicate more time to working with their users.

In order to provide support to the most vulnerable it is very important to cooperate with other systems, such as the health system, the education system, the police and others. However, such cooperation is often lacking and it happens often, for example, that a person whose condition is quite serious is being released from hospital without any support being ensured, or that systems operate simultaneously, but without any coordination.

Cooperation with LRGUs and CSOs is just as important and in some regions it is on a high level. However, elsewhere, the lack of such coordination presents an obstacle for citizens when exercising their social rights. Some LGUs are not aware enough of social rights, which they perceive as "charity", especially in counties focused on tourism. For that reason, they do not fulfil their legal obligations regardless of their financial capacity. In some, like the Istria County, numerous stakeholders pointed out that the centres are mostly "closed fortresses", especially the one in Pula which does not cooperate with stakeholders in the local community and hardy does any field work.

Users said that the employees of the centre expect them to have information about their rights in advance and to protect them without any support from employees, and that they do not give information in a simple and understandable manner. They also complained about improper communication, especially members of the Roma minority.

There is, obviously, a lack of systematic support, education and supervision by experts in the centres. What is needed is an improved inter-service cooperation and coordination between different bodies. The social welfare system reform, that has been implemented for years, produced no significant steps forward, especially when it comes to the organisation of social welfare centres work and the

reduction in their public authorities, numerous tasks and administration work, which would enable their employees to dedicate more time to working with their users.

In the last 12 years, namely, we witnessed attempts at implementing the reform of this system through many projects and strategies. The social welfare system development project, carried out from as early as 2006 to 2009, aiming at modernisation and harmonisation with the EU criteria and standards, was expected to improve the system: by developing social programmes for the provision of social services, a new work organisation in the centres, enhancing the information and management system and improving infrastructure. The Joint Memorandum on social Inclusion (JIM) was to contribute to solving property and social exclusion issues, to implement common EU goals and identify crucial issues for future monitoring and evaluation. However, although its application could help avoiding the multiplication and accumulation of rights and establish a connection on the national and local levels, the problem still remains. Besides, even then it was planned to introduce a social pension and to adopt the Social Housing Strategy, which has not been done, as well as to introduce measures to support single-parent families and families with more children, which also produced no results as such families are still at a higher risk of poverty.

This reveals that, in the social welfare reform, strategic documents with no continuity are passed, which, besides frequent changes and amendments to regulations, does not make it easier for experts to work, but, on the contrary, makes their work more difficult and leads to irregularities and disparities in their work. Unfortunately, the lack of results of all social welfare system reforms so far is also reflected in their insufficient efficiency leading to tragic events where the most vulnerable suffer.

Thereafter, a project called Synergetic Social System started at the recommendation of the European Commission concerning the consolidation of social benefits in 2014. Within it, a study report was drawn which showed that, in the RC, there were over 130 social benefits on the central level and over 3,000 benefits given by towns, municipalities and counties. Based on this Project, the Social Rights Catalogue was to be prepared, which would include a list of benefits and basic information about them and would be useful to beneficiaries in particular. The consolidation aimed at introducing a unique criteria for social benefits, ensuring a data exchange with LRGUs and other stakeholders for greater efficiency, better targeted social programmes and to facilitate the reactivation of the unemployed and those inactive in the labour market. All this was meant to contribute to an efficient and transparent social welfare system and to ensure better supervision and control of funds spending by the introduction of the Unique Benefit Centre. However, this was abandoned after several years of postponing it.

However, the implementation of the Strategy to Combat Poverty and Social Exclusion and the Strategy of Social Welfare for the Elderly is underway, although with limited results. We will discuss it further in special chapters. Besides that, the process of social welfare home transformation and deinstitutionalisation, which takes place according to the Operational Plan to Deinstitutionalize and

Transform Social Welfare Homes and Other Legal Persons Providing Social Welfare in the RC 2014-2016 (2018) has not been completed yet.

The foregoing reveals that, in the social welfare reform, strategic documents with no continuity are passed, which, besides frequent changes and amendments to regulations, does not make it easier for experts to work, but, on the contrary, makes their work more difficult and leads to irregularities and disparities in their work. Unfortunately, the lack of results of all social welfare system reforms so far is also reflected in their insufficient efficiency leading to tragic events where the most vulnerable suffer.

Position of the Elderly

In rural areas, the elderly people are especially vulnerable. A European study on the quality of life from 2016 shows that 6% of persons in the RC recognise as a difficulty the fact that they are far away from the general practitioner's office, compared to 3% in the EU, while the costs of seeing a doctor present a difficulty, either to some extent or a major one, to 28% of the population (17% in the EU). The latest EU-SILC data show that 4.3% of elderly persons over 65 in the RC reported a medical need that was not met, compared to 3.3% in the EU-28, or 0.9% of the working-age population. This is surely also due to the lack of coordination between social and health services so that citizens and representatives of SWCs warned in particular about the fact that the elderly are often released from hospital without transportation, accommodation and/or care being ensured.

City and municipality mayors emphasised the importance of the Zaželi Programme (Make-a-Wish Programme) which provides an in-home assistance to the elderly. However, due to emigration and tourism, not a few pointed out that it is extremely difficult to find women willing to work as gerontology aides. At the same time, although this programme is of much longer duration than public works, which also included the provision of this kind of service, the assistance to the elderly should be of systematic and permanent nature. Furthermore, during our filed work, we observed that in most LGUs the Make-a-Wish Programme is the only programme for the elderly and that other amenities such as day-care centres or inclusion in community life by way of cultural activities and alike are missing. Pula, for example, mapped requirements of the elderly for social services and this showed that 24% of the respondents had various problems with their dwellings including humidity, roof problems, painting walls, repairing doors and alike. Most problems that they encounter are those associated with their daily activities such as transport, shopping, cooking, laundry, cleaning and bathing and that they miss opportunities for socialising in day-care centres or senior clubs.

Living on the Islands

In November 2018, a new Islands Act was adopted, prepared in cooperation with a wide circle of stakeholders: representatives of local and regional island self-government, state and public administration bodies, public law bodies, the academic community and island civil society. The new Act, adopted after 20 years, defines islands as an area with specific development features and

constitutes a framework for the introduction of a new island policy and their sustainable development as well as for improving the quality and conditions of life on the islands. Island coordinators will be appointed to organise, launch and coordinate plans and projects of importance for the sustainable development of islands. Islands, especially those in the Zadar and Šibenik areas, which administratively belong to coastal towns or other islands, used to have an unnaturally high development index which made it more difficult for them to apply for new projects. The new Act classifies populated islands by island development indicators: geographic criteria and territorial jurisdiction, distance from the mainland and by their specific position.

The new Act also envisages a new approach to strategic island development planning through the adoption of the National Island Development Plan and the Annual Island Programme, while LGUs on the islands will adopt Island or Island Group Development Plan. It is important to emphasise that, in order to improve the quality of life on the islands, the coordination between all development planning stakeholders is of utmost importance. Also, it will be important to monitor in reports impacts of measures and to identify challenges in their implementation, instead of providing just an overview of state and public sector investment as in previous Reports on the Effects of Island Act Implementation. It is also important to continue preparing byelaws in cooperation with a wide circle of stakeholders, island inhabitants in particular.

According to the CBS population estimates for 2016, there are 130,819 inhabitants living on the islands in 51 LGUs, which represents a 2.72% increase compared to 2011. Despite this positive trend, island inhabitants and LGU heads often pointed out that young people are migrating to the mainland to continue with their schooling, find a job or because of better living conditions. On the island of Vis, for example, youth organisations pointed out that accommodation poses a big problem as lodgers have to leave flats as early as the end of May or the beginning of June because of the arrival of tourists. City authorities recognised this problem and started reconstructing former military barracks into flats within the Subsidised Housing Programme. However, they encountered the problem of unresolved property relations. According to the Mayor of Komiža, it took them over seven years to regulate and obtain documentation for a plot to build one such building.

In rural areas, too, one of the key challenges that their inhabitants meet are connections between the islands and the mainland, as well as connections between the islands and island settlements, especially outside the tourist season. Representatives of the LC of Žirje and Kaprije referred to the problem of a boat connecting them with Šibenik, which often malfunctions. Island inhabitants have no high-speed line to Šibenik then, but only a ferry boat once a week, which arrives to Šibenik at 18:00.

Besides traffic isolation, many islands have no adequate water supply. On the island of Žirje, there is no water supply network. Instead, each house has a well, and if there is no water in the summer, it is transported by a water carrier. Furthermore, three settlements on the island have electricity connections, while three have none.

It is also important to improve health protection on the islands. On the bigger ones, like Vis, there are outpatient units with general practitioners and a dentist. Nevertheless, its inhabitants complain that it is not always easy for them to see a specialist or to do a blood test for example as they have to travel to Split. The City of Vis provides an example of what city authorities can do, at they pay a

specialist to come to the island and examine patients (for example, an internist, cardiologist and paediatrician). The City organised the dermatological examination of 600 people followed by 100 treatments. On smaller islands like Kaprije, there is only a nurse with no outpatient unit even during the summer. As the nurse will retire soon, they fear that no one will apply for a vacancy. They also point out that health visitors and physiatrists do not visit their island because it takes too much time to come to the island. They are also dissatisfied with emergency care because, often, it cannot be provided on time. On the islands with no traffic, patient transportation is also a problem, especially when they return from hospital.

Usage of ESI funds

Although everybody stressed the importance of ESI funds for even development of the RC and for the improvement of social and economic conditions, despite an economic growth in 2018, the contracting rate was, according to the latest available data, 63%, and only 19.34% of the total allocation was disbursed to users. This is a result of a complex system but also of poor administrative capacity of the national, regional and local government.

For example, projects within the Programme for the Integrated Physical, Economic and Social Revival of Small Towns in War-torn Areas (Beli Manastir with the Municipality of Darda, Benkovac, Knin, Petrinja and Vukovar) are lagging behind, partly because of complex public procurement procedures, but also because of unresolved property relations and changed circumstances due to an increase in works prices.

LRGU representatives, too, continued to point out obstacles when applying for projects, such as unresolved property relations in the Municipality of Kijevo, which completed its cadastral surveys, but its residents must go to Knin to register their property in the land register. Some LRGUs, which recognised certain problems such as insufficient services for the elderly, and which have a higher development index, pointed out that this makes it more difficult for them to carry out their projects. Therefore, it is encouraging to know that, whenever there is an element of competition between applicants, bodies in charge of the Grant Call may, when assessing project proposals, also apply the principle of co-financing rate modulation besides the development index. Besides that, representatives of national minority councils, LAGs and CSOs emphasised that more important training and workshops take place in larger centres, while rural areas are excluded from it. They also pointed to delays in public call announcements, their frequent modifications and too long evaluation processes, which also influences LRGUs budgets.

LRGUs are faced with a lack of funds needed to take part in larger projects. Although the MRDEUF announced the grant call from the Fund for Co-financing EU Project Implementation on the regional and local level in 2018 as well, because of a high number and value of applications exceeding the funds secured, the call closed only a month after its announcement.

Many local units have no administrative and financial capacity for preparing and running several EU projects at the same time, so that it is no surprise that the last analysis of the assistance that counties, towns and municipalities received as parties or partners implementing programmes and projects (co)financed by the EU in 2015 and 2016 showed that despite the growth, almost one half of towns and more than 3/4 of municipalities did not make use of EU funds at all. It is important, therefore,

for these units to build capacities and develop skills for project preparation and implementation by making use of the experience of successful units. In this sense, it is necessary to strengthen both the vertical and horizontal cooperation between all stakeholders.

Recommendations:

102. To the Ministry of Regional Development and EU Funds, to evaluate Action Plan 2017-2019 for the Implementation of the Regional Development Strategy of the RC by 2020;
103. To the Ministry of Regional Development and EU Funds, to include representatives of LRGUs, CSOs, LAGs and national minority councils in the preparation of by-laws in accordance with the Assisted Areas Act, the Mountainous Areas Act and Islands Act;
104. To the Ministry of Health, to ensure, when adopting the Emergency Medicine Network even availability of emergency care, especially in rural areas and on the islands;
105. To the Ministry for Demography, Family, Youth and Social Policy, to ensure social welfare centres the employment of experts according to the establishment plan and to consider whether prescribed standards are in line with the growing public authorities and other specialised tasks;
106. To the Government of the Republic of Croatia, to ensure additional funds for the Fund for Co-financing EU Project Implementation on the regional and local level;
107. To the Ministry of Regional Development and EU Funds, to ensure professional support for the preparation of tender documents and project implementation to towns and municipalities which have not used EU funds so far

3.15. DEMOGRAPHIC CRISIS, MIGRATION AND HUMAN RIGHTS

In the last 20 years, Croatia's population decreased by some 500,000 so that there are less than 4 million people living in the RC at present. According to CBS figures, only during 2017, 47,000 left the country, i.e. 129 people a day, mostly the young between 20 and 39 years of age. Many of them left together with their families, which points to possible permanent nature of their departure. The aforementioned, just like the negative birth rate that has been present for a long time, because since 1998, there have been between 5,000 and 13,000 more deaths than births, point to how serious the issue of demography is.

According to data of the Demography Department, Zagreb Faculty of Economics & Business[10], numerous demographic indicators show that Croatia is at the Europe's bottom characterised by a low fertility rate, demographic ageing with increased mortality and massive emigration. In order to change this trend, several documents have been adopted in the last 20 years with a focus on the population policy, such as the National Demographic Development Programme, the National Family

[10] Ivanda K., *Demografija Hrvatske: stanje, zablude i perspektive, Političke analize*, Vol. 8 No. 31, 2017. https://hrcak.srce.hr/192426

Policy, the National Population Policy and the Family Policy, but only a few of their measures have been implemented. However, the adoption of a new national demographic strategy aimed at Croatia's revitalization has been announced, so that it remains to been seen what will be included in it and what its effects will be. It would be important to include in its preparation as many stakeholders as possible, representatives of rural areas and islands among others. A the same time, in order to stop the migration trend and increase the number of new-borns, certain measures have already been taken, such as an increased limit of the maternity allowance for the next six months of maternity leave, an increased number of child allowance beneficiaries, the opening of new kindergartens with working hours adjusted to meet the needs of employed parents. As these are new measures, there are still no data about their effects.

The importance of this issue must not be neglected within the Ombudswoman's scope of work as a comissioner of the Croatian Parliament for the protection and promotion of human rights and freedoms prescribed by the Constitution, but also by the law and international legal acts regulating human rights and freedoms, and as the central body responsible for the suppression of discrimination and a national institution for human rights. The level of (in)ability to exercise human rights may certainly be considered as one of the causes for migration. Taking into account the historical foundations of the Constitution and genuine aspirations to preserve the RC as an independent, sovereign and democratic state which guarantees equality, human rights and freedoms and promotes economic and cultural progress and social wellbeing, this issue must be included in the Report to the Croatian Parliament.

A survey conducted by MojPosao.net web portal, which included 1300 respondents, shows that as many as 93% respondents want to leave Croatia (50% would like to go abroad permanently, 39% would like to stay there for up to five years, and 4% for a year), while only 7% made it clear that they wish to stay. As a reason for migration they mentioned, besides better living standards, moral values, large and inefficient bureaucracy, corruption and noncompliance with the law, while better paid jobs for which they are qualified rank only third for 52% of respondents as the reason for moving abroad. This leads to a clear conclusion that even a rapid economic growth would not be enough to stop migration. Instead, continuous measures are needed that will contribute to a higher level of the protection of human rights and the equality of citizens.

When analysing possible causes of this phenomenon, one should in any event consider the disparity in service availability, discussed more thoroughly in the previous chapter. This also includes problems such as insufficient health care in remote regions and regions poorly connected with bigger towns, tragically illustrated by the death of a boy in Metković, furthermore, the closure of public transport lines, timetables not adjusted to the needs of residents or students, uneven practice when it comes to court decisions and too long judicial proceedings, many of whom become time-barred. An example of this is a medical malpractice lawsuit initiated by a young man who, after a routine appendix surgery, had his leg amputated, and which ended after 12 years of litigation. All this creates a feeling of legal uncertainty and leaves an impression of unjust treatment of the most vulnerable,

while favouring the privileged ones, of corruption and arbitrariness of actions by competent bodies, which sometimes inconsistently decide about citizens' rights by circumventing prescribed criteria.

According to the special Eurobarometer survey from 2017, tolerance to corruption was increasing so that only 45% of respondents found it unacceptable, compared to the EU average of 70%. A portion of respondents who believed that corruption was increasing or remained on the same level was 91%, while the EU average ran at 79%. At the same time, 95% of respondents who were involved in corruption or witnessed it claimed that they had not reported it because it would be useless and hard to prove, or out of fear of retaliation.

On the Corruption Perceptions Index scale published by the Transparency International, Croatia scored 48, much below the western Europe and EU average of 66. This shows that public sector corruption in the RC is perceived as widespread and that it directly contributes to the collapse of institutions, seriously affecting the weakest and most vulnerable members of society. A European survey on the trust citizens place in national institutions, ERCAS, showed that, between 2008 and 2013, the trust of Croatian citizens in the Parliament and regional representative bodies decreased by 4%. Non-transparent business transactions, downplaying the conflict of interests issue, corruption scandals, pandering to the elite and clientelism which are never tried, create a feeling of injustice, lead to a lack of trust in institutions, and encourage migration in this way. A case where the management of a collapsed company received the full amount of their salary arrears, while workers are still waiting their small wage arrears, is just another example of actions which, although in accordance with the law, are morally unacceptable and contribute to the perception and atmosphere of hopelessness.

Devastating statistical data on life expectancy, which is lower in the RC than in developed EU countries, on unsuccessful treatment of serious diseases, which places Croatia at the EU's bottom, on the lack of required medical equipment and new, more efficient medications, which is also pointed out in the draft of the National Cancer Plan, furthermore, on sanctioning citizens who were forced into early retirement as opposed to keeping the system of privileged pensions, also create a feeling of injustice and probably influence some people to live the country.

„The following happened to me. I am employed in a firm that does not exist. This can happen in Croatia only. Nobody tried to contact me, I received no notice of dismissal. When I called the receiver, I learned that the firm had been deleted"

source: Index.hr

Although the same projects have been discussed for almost 30 years, such as the irrigation of Slavonia, economic revival or railroad modernisation, it still takes over 4 hours to travel 200 km from Orahovica to Zagreb by train.

Measures for dealing with the negative demographic trends are adopted ad hoc and mostly reduced to financial support by increasing the maternity allowance, one-off allowances for a new-born child, or to longer

working hours of kindergartens in places where people no longer want to live as there are no jobs, that are isolated or have no doctor or alike. Although such measures, too, contribute to the improved quality of life of young families, they do not seem to be a result of an actual situation analysis and a long-term consideration of their effects. One-off financial help for a new-born, although significantly higher, is not crucial for deciding to have a child, because such sums will hardly make young families stay, while they find in other countries a functional labour market and life-long and comprehensive social support. Quite the opposite is the situation of two employees of a publishing house that went out of business when they were on maternity leave. Although not responsible for it, they are requested to return the allowances paid to them. Additionally, they were told, that due to the closing down of their company there is no one to cancel their employment contracts so that, formally, they are still employed in a non-existing company and cannot look for a new job because of it. This is discussed in detail in the chapter on labour and employment relations.

As a study[11] shows, as much as 55.3% of emigrants from the RC had jobs before leaving the country. As a reason for leaving the country, most respondents mentioned incompetent politicians, the inefficient judiciary, immorality of the political elite, legal uncertainty, nepotism and corruption. According to data obtained in a study on life quality, conducted in the EU in 2016, as much as 58% of Croatian citizens, in contrast to 36% in the EU, emphasised that that it was quite or very difficult for them to balance their paid jobs and family responsibilities. Attempts to make labour legislation more flexible were always to the detriment of workers, so that 69% of respondents from the RC pointed out difficulties in fulfilling their family responsibilities because of their work. In spite of that, and allegations by the NSH that workers with family responsibilities do not get promoted, EUROFAUND emphasised that, in Croatia, this issue is not even discussed, and that there is no response from policy makers to the issue of burnout, which is, as a rule, a consequence of being overloaded with work, long working hours and overtime work, injustice experienced at work and strained relationships and conflicts. Part-time workers constitute an especially vulnerable group as they, out for fear for their jobs, often work even when they are sick.

It will be only when politicians unreservedly start acting to the benefit of citizens and show by their own example the respect of institutions and strict law enforcement, that we would be able to hope for the renewal of society that will built through the synergy of equal and optimistic citizens.

According to World Bank data, over the past 20 years, the RC has been weakening economically and dropped, based on its GDP and purchasing power, from the 25th to 30th position. No wonder then that data show the loss of some half a million of inhabitants over that period. According to actual individual consumption (AIC) measuring material welfare of households, the RC recorded 61% of the EU average, only Bulgaria was weaker than that.

[11] Jurić, T., *Suvremeno iseljavanje Hrvata u Njemačku: karakteristike i motivi*, *Migracijske i etničke teme*, Vol. 33 No. 3, 2017, https://hrcak.srce.hr/198700

Besides growing at half the rate of the neighbouring countries, Croatian economy is also unevenly distributed, so that life in rural areas gets harder, often lacking basic conditions for survival. Because of the lack of economic, social and cultural amenities, smaller towns across the RC have been facing outflow for decades, which was discussed in the previous chapter.

Housing subsidies, introduced with the aim to keep the young in Croatia, are available to wealthier citizens above all. The fact that the majority of loans were granted for the purchase of flats in Zagreb shows that the measure failed to achieve its goal to revitalize the most hit areas in demographic terms. For low-income citizens, who do not meet the criteria for housing loans, there is no housing policy at all.

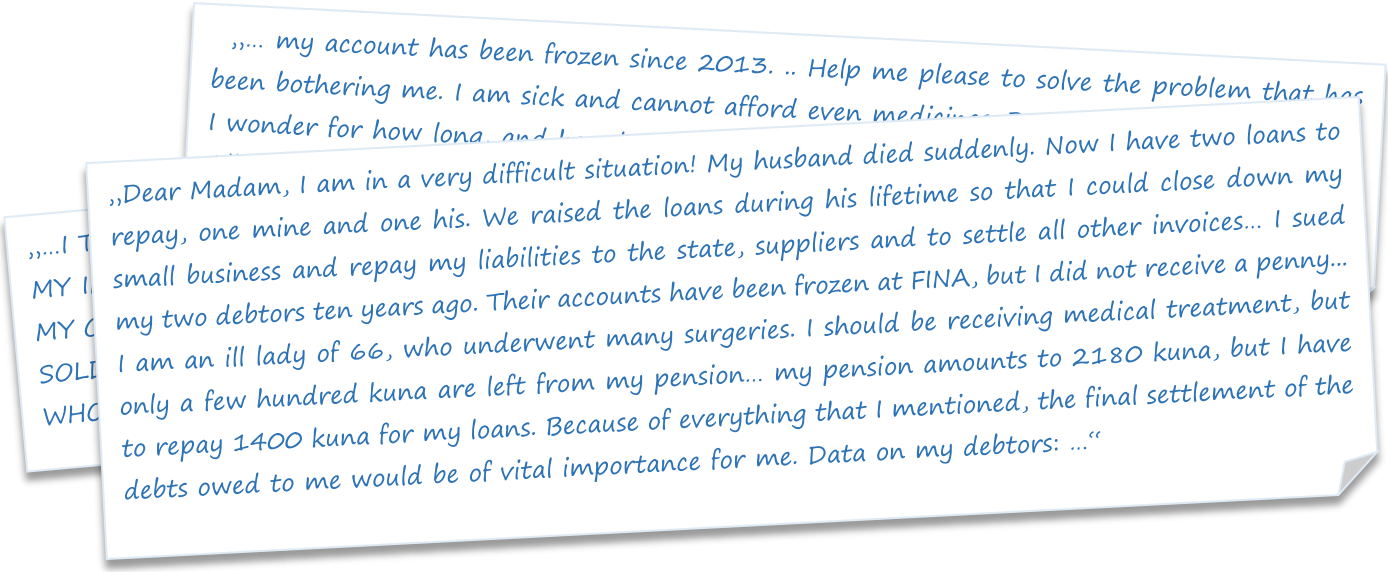
Young people will not stay in the country anymore because of promises. At the moment when the problem of demography almost turned into a crisis, whose resolution is a precondition for the survival of all other systems (pension, health, education), demography must come first in political, economic and budgetary terms. As a strategic issue of Croatia's future, it is closely connected with all issues mentioned herein concerning the exercise of human rights and equality, but also with others that we failed to mention. It will be only when politicians unreservedly start acting to the benefit of citizens and show by their own example the respect of institutions and strict law enforcement, that we would be able to hope for the renewal of society that will built through the synergy of equal and optimistic citizens.

Recommendation:

105. To the Ministry for Demography, Family, Youth and Social Policy, to include, when preparing demographic measures, a wide circle of stakeholders, especially representatives of rural areas and islands.

3.16. FINANCES

Enforcements, Debt Write Off, Consumer Bankruptcy



Citizens keep on turning to us in relation to enforcements, often seeking legal advice which we are not authorised to provide. Therefore, we refer them to a lawyer and the FLA suggesting regulations and possibilities of legal protection. However, it is still noticeable that they are not familiar with regulations and are not able to assess their rights and obligations in a new situation so that, frequently, they do not use legal protection or do not use it timely. Some even believe that they will solve the problem by corresponding with a number of institutions, out of which most have no authority to take actions in their cases, or by turning to the media. Some apply for help in solving the problem of their debts, because of which enforcement proceedings have been taken against them, describing the gravity of their situation without disputing or analysing the soundness of claims to be collected from them. A citizen complained, who, as a guarantor, has to repay someone else's loan and cannot retroactively get his money back from the debtor's heirs, but also debtors who, due to their dissatisfaction, do not accept the court decision despite legal remedies that they used, or who are not able to bear the costs of the proceedings they initiated before the court. For citizens with an income below the average, enforcements are especially difficult, as they barely make ends meet and have to decide whether to buy a medicine or pay for heating or a meal. Complaints also related to the fact that Christmas and holiday bonuses etc. are not protected from attachment. Creditors, too, turned to us complaining about too formal FINA procedures and repeatable returning of applications for direct collection, as well as creditors who fail to enforce their claims in court.

A part of complaints still concerns actions of debt collection agencies, indicating that debt transfers are ever more frequent. As the normative framework and the control of their work are still insufficient, so that citizens have no one to turn to dispute the legality of their actions. While the Croatian Debt Collection Agency Association states that they are not familiar with any case pointing to the irregularity of actions of its members, or of a violation of the debtor's right to privacy, the Croatian Association for Consumer Protection points out the harassment of debtors, even of their neighbours and employers, which complaints that we receive confirm, and which is discussed in detail in the chapter on the right to privacy. Citizens also frequently turn to the CNB because of assignments of claims on part of banks, although the bank claims that the consumer protection has been improved so that in case of a claim assignment the debtor is given information about the debt amount and structure at the moment of transfer, and an instruction on the joint and several liability of the bank and the new creditor, and that the debtor must not be put in a less favourable position, while the new creditor is bound by the placement sale contract to assume the legal position of the bank. Besides, in 2018, the EC adopted the Proposal for a Directive on credit servicers, credit purchasers and the recovery of collateral aimed at setting common standards to ensure the conduct of legitimate business and supervision of credit servicers and credit purchasers. The Proposal envisages rules for establishing mechanisms for the observance of debtor's rights and personal data protection regulations, service providers should obtain authorisation and establish adequate mechanisms for recording and handling debtor's complaints. The Proposal also envisages the establishment of a national register of authorised credit servicers. However, as the deadline for its implementation in the national legislation will be by the end of 2021, one should take into account that it is not only

banks who assign their claims, so that business and the supervision of legal persons specialised in the purchase and collection of outstanding debts should be regulated in general.

Although, according to the Ombudsman Act, we have no authority to determine the legality and regularity of business by banks or to decide on rights and obligations deriving from contractual relations with banks, we note, generally speaking, and based on publicly available information that it, unfortunately, turned out that the situation is still uncertain for citizens to whom assistance was to be provided by adopting the Act on Annulment of Loan Agreements Signed with Creditors Unauthorized in Croatia, and who initiated proceeding for nullity of loan agreements, since the Court of Justice of the EU ruled in case C-630/17, in February 2019, that this regulation is contrary to certain provisions of the EU acquis. The ruling of the Constitutional Court is expected. On the other hand, case law is getting more intense in the context of the legal battle which debtors have been fighting for years to establish the unfairness of contractual clauses on the CHF currency and the variable interest rate which the bank was changing by its unilateral decision. In that sense, 2018 was important because of the Supreme Court ruling pursuant to which, by way of the class action in the so-called Swiss franc case, the statute of limitations for claims concerning overpaid interest based on unfair contractual clauses on a unilaterally applicable interest rate has been interrupted. By the final and binding judgement, on 13 June 2014, the statute of limitations started running from the start for all claims in private court proceedings. Also, the High Commercial Court overturned in its ruling in the Swiss franc case appeals of banks that were sued and upheld a ruling of the Commercial Court about the nullity of the foreign currency exchange clause in the case of the CHF-indexed loans and of the unilaterally variable interest rate clause, agreed on between September 2003 and the end of 2008. With regard to competence, we received no complaints about these cases, nor we have any knowledge about the violation of the right of access to the court. On the contrary, the number of rulings passed in court proceedings that citizens initiated by way of private actions is increasing, which constitutes the right manner of their legal protection. However, as emphasised in the 2019 EC Report for the RC, although some progress has been made, the interpretation of the class ruling in lower courts and its application in cases of converted CHF-indexed loans, are still uncertain. Therefore, the impatience of interested contracting parties, citizens debtors first of all, as they are waiting further rulings of the Supreme Court is understandable. All the more so, as in June 2019, the statute of limitations will expire in most cases relating to overpaid interest-based claims.

In the context of unfair contractual clauses, it follows from case law and the interpretation of the Court of Justice of the EU that only instruments preventing the enforcement based on an unfair contractual clause present an efficient protection, and that ex posteriori protection, based on the compensation for damage caused by the enforcement based on an unfair contractual clause, especially in case of the enforcement of immovable property, is not an efficient legal protection instrument. Therefore, when adopting a new enforcement act, an obligatory postponement of enforcement should be prescribed in case of real property sale during the proceedings for the establishment of the unfairness or nullity of a contractual clause.

Also, in 2018, the Constitutional Court overturned in its ruling the Act on the Amendments to the 2017 CRT Act , which led to changes in the forced collection model applicable on monthly fees by issuing special payment orders. The Constitutional Court emphasised that that the freedom of the legislator in choosing or applying certain legislative model does not imply or exempt the proposing party from the obligation to set forth in the bill sufficient and relevant explanations as well as rational and objectively justified reasons for the chosen model or its application. This is because it is unacceptable in a democratic society based on the rule of law and the protection of constitutional values to submit such bills to the Croatian Parliament which do not include required explanations as such practice violates legal certainty, introduces legal uncertainty and arbitrariness. Therefore, bills aimed at achieving legitimate goals must include required data in terms of their relevance and sufficiency, which, in particular, concerns cases that do not constitute mere legal and technical modification, but a structural and normative intervention which essentially modifies the existing legislative model.

Despite the reasonably great expectations from the legislator, even the new Enforcement Act will not be able to mitigate the consequences of anomalies in the existing enforcement system that have been accumulating for years. The greatest problem that citizens have are still over-indebtedness and living with a frozen account for a long time.

Therefore, it is necessary, within the context of the preparation of a new Enforcement Act, planned for the middle of 2019, to provide relevant and specific explanations and to quantify data on which statements about effects are based and which justify the selection of proposed measures, which would convince that they are appropriate for the achievement of legitimate goals. As this aroused much interest of the general public, which we also highlighted in e-consulting, it is useful to follow this rule when introducing the draft proposal of the Enforcement Act to the general public so that citizens would be given an opportunity to understand proposed solutions, and so that consensus might be reached to the greatest extent possible, because an non-transparent overview of considered models, analyses and conclusions, which justify the selection of the proposed enforcement model, would cast doubt on the fairness of new solutions and of their sufficiency for producing required effects as well as on their acceptability for those concerned.

It is commendable that the preparation of the new Enforcement Act intensified, so that a preliminary assessment was made in 2018, while draft regulations were introduced to the public at the beginning of 2019. According to the MJ, it will balance and additionally improve the existing system, while taking into account the need to conduct the enforcement proceedings quickly, efficiently and economically, to protect the dignity of the enforcement debtor and to make enforcement the least unfavourable for the enforcement debtor. With regard to recommendations that we sent in our earlier reports, we support the goals pursued by the adoption the Enforcement Act, in which we recognise an effort to respond to some of the problems, and we hope that prescribed solutions would really produce effects listed herein. However, despite the reasonably great expectations from the legislator, even

the new Enforcement Act will not be able to mitigate the consequences of anomalies in the existing enforcement system that have been accumulating for years.

The greatest problem that citizens have are still over-indebtedness and living with a frozen account for a long time. The "Blokirani" association of citizens with frozen bank accounts said that according to their survey of 1,176 respondents from January 2018, 98% of them had their accounts frozen for over 900 consecutive days, generating five to eight new enforcements annually, that they spend up to HRK 800 a month for overhead expenses which leave them with HRK 1,025 only for their everyday needs provided that they have a flat of their own.

After, for years, no solution has been found for a growing number of over-indebted citizens, allowing the problem to escalate, in 2018 a package of measures was adopted to solve the problem of citizens who had their bank accounts frozen for a long time, aimed at exercising fundamental social rights, achieving social security and reducing extreme social differences. Three measures were adopted within this package: the Act on the Write-Off of Physical Persons' Debts (AWOPPD), the Act on the Seizure of Cash Assets (ASCA) and the Act on Amendments to the Consumer Bankruptcy Act (AACBA).

Some of the reasons why citizens failed to exercise their rights to a greater extent probably lie in the lack of information, short deadlines for lodging applications, and, partly, being insufficiently active as debtors in dealing with over-indebtedness.

According to the AWOPPD, the right to one-time debt write-off is granted to citizens who are not entrepreneurs, and whose money was seized on 31 December 2017, and the seizure continued until the AWOPPD's entry into force. Their debts of up to HRK 10,000 owed to the state and legal persons associated with the state were written off together with accompanying interest by operation of law. FINA stopped, either entirely or partially, with enforcements on 150,474 enforcement debtors, which accounts for 46.1% of the total number of citizens with frozen accounts. 2% of them, or 6,248 citizens, no longer have frozen accounts. FINA stopped executing enforcements in relation to 2,06% of the total amount of citizens' outstanding debts. Additionally, citizens were given a possibility to request the rescheduling of their outstanding tax debt that was not written off by the end of the year. LRGUs, together with legal persons associated with them, financial institutions and private entrepreneurs decided independently as to whether and under what conditions they will write off debts pursuant to the AWOPPD. Bigger towns acted differently, some did not implement write-off at all, while those who did, defined their conditions differently. Citizens were especially dissatisfied with those disregarding social criteria. Also, in some cases, where there was no independent debt write-off, there was a noticeable weak response of debtors. For example, in the City of Rijeka, only 204 requests were made, and 142 were approved which constitutes only 5% of those meeting the requirements. Some of the reasons for not exercising this right to a greater extent are probably not being sufficiently informed, short deadline for requests, but also insufficient activity of a part of debtors in solving their own long-term over-indebtedness.

The most important novelty in the ASCA is the provision according to which the enforcement of cash assets, with certain exceptions, shall cease if the claim has not been entirely collected from the payment base of the debtor who is a physical person within three years upon its receipt by FINA, and if there were no collections for the last six consecutive months. The debt will not disappear in this way, and the creditor may initiate the enforcement proceedings again, either in other cases, or by submitting again the payment basis for enforcement to FINA. In the latter case, with certain exceptions, the creditor shall pay an advance fee for its implementation. While, according to the explanation provided by the proposer, it derives that, in this way, the creditor is called upon to consider as to the existence of a reasonable interest for insisting on the seizure of cash assets which would end in the debtor having his account frozen again, without any possibility to succeed with the enforcement, complaints are also heard that, both the creditor and the debtor are put at a disadvantage in this way. The creditor might possibly loose his collection order, will bear increased costs beforehand and, due to prescribed limitations, might not be able to initiate the enforcement proceedings in other cases. On the other hand, the debtor will finally have to bear such costs, while the cost of an increased risk, which the creditor bears for now, could burden future debtors who will face increased requests for securing the claim collection.

A positive step forward has been observed in the modified manner of calculating FINA fees, whereby their amount is to be determined in proportion to the debt amount, is made known in advance and covers all implementation costs, while the provision of data and the issuance of certificates and photocopies of documents from the Register of the Payment Base Order is no longer charged.

As the ASCA entered into force, FINA stopped, either entirely or partially, with enforcements on 225,322 enforcement debtors, which account for 70% of the total number of citizens with frozen accounts. 16% of them, or 50,695 citizens, no longer have frozen accounts. The execution of enforcements ceased in relation to 75% of the total amount of outstanding debts. However, it will be important to further track these data to see how many of stayed proceedings will be initiated once again, and in how many cases will creditors reach another solution with debtors or will they simply give up collecting their claims.

The long-term preservation of accounts still prevails. On the last day of 2018, they covered 85.3% of the total number of citizens with frozen accounts whose debt accounted for 93% of the citizens' total debt.

So far, the first effects of the implementation of the AWOPPD and the ASCA show that, unlike 319,752 citizens with frozen accounts and a HRK 42,76 billion debt by the end of 2017, as of the last day of 2018, there were 264,751 of them with frozen accounts and a debt of HRK 17,62 billion. The largest share of the debt is owed to the financial sector, but most citizens owe to teleoperators and creditors from the ICT sector. Judging by debt amounts, the majority of them owe up to HRK 10,000. FINA explained that an increase in the number of citizens with frozen accounts up to that sum is due to debt write-off, because of which a part of debtors with a higher debt amount came into the category of debtors with a debt of up to HRK 10,000. The highest decrease in the number of citizens with frozen accounts is recorded

in the group of debtors whose respective debts exceed one million kuna. The long-term preservation of accounts still prevails. On the last day of 2018, they covered 85.3% of the total number of citizens with frozen accounts whose debt accounted for 93% of the citizens' total debt.

Although these measures will surely make the situation easier for debtors, it remains to be seen whether they are socially equitable and what their systematic and long-term effects will be like.

Although these measures will surely make the situation easier for debtors, it remains to be seen whether they are socially equitable and what will their systematic and long-term effects be like. Although we recommended in the 2017 Report the adoption of a plan that will define differentiated and focused measures to ease the situation of over-indebted citizens, to secure their financial security and strengthen them for assuming their responsibilities and developing the culture of payment, based on a comprehensive analysis of the over-indebtedness issue. Unfortunately, no such analysis of the debtor profile was made so that it is unclear whether the approach was appropriate with regard to the characteristics of over-indebtedness which calls into question their long-term efficiency in achieving social justice as the highest value of the constitutional order.

In other words, it remains to be seen to what extent the attempts at mitigating consequences by these legislative interventions would influence over-indebtedness causes, because one-time debt write-off, for example, to someone who found himself in such situation due to permanent unemployment could bring a temporary relief only, but not a permanent solution. The one who irresponsibly ran up debts could be encouraged by debt write-off to go on doing so and run into same problems. The 2019 EC Report for the RC points out that new loans increased by 3% in the first nine month of 2018 despite more strict conditions. Therefore, it would be important to make a comprehensive analysis of debtor profiles and causes of over-indebtedness, not only to solve existing problems, but also to prevent future ones relating to debts. An analysis made for the Croatian Bank Association shows that these measures mostly helped a few big debtors owing to the financial sector and that they will not permanently solve the problem of non-payment and over-indebtedness. Sooner or later, new long-term solutions will be needed that will take into account differences in the non-payment of debts and frozen accounts and apply different solutions based on debtor segments.

The AACBA was adopted, among other things, to solve the problem of an insufficient number of trustees, which presented, besides a weak interest of debtors, an objective obstacle to conduct the consumer bankruptcy proceedings, about which we warned in our earlier reports. The Act also stipulates requirements, the manner of and the procedure for the simple consumer bankruptcy to enable numerous citizens to settle their creditors in quick and simplified proceedings out of their property that is eligible for it and to get rid of the remaining debt, which should result in a decreased number of insolvent citizens and enforcement proceedings. According to the MJ, there are 80,871 of such citizens owing HRK 650,305,614 in total, whose accounts have been frozen for more than three years and whose principal amounts up to HRK 20,000. As the AACBA entered into force on the first day of 2019, its effects will be visible in the forthcoming period. However, data on the

implementation of the Consumer Bankruptcy Act in 2018 reveal that citizens are still reluctant to chose these proceedings as an alternative to the enforcement, as only 148 requests for the out-of-court proceedings were made, and only 178 requests for initiating the consumer bankruptcy proceedings, which is less than in the previous years and out of proportion with the number of citizens with frozen accounts.

When it comes to the provision of help in solving the problem of over-indebtedness, a project that the MDFYSP carried out in cooperation with France provides a good example for it in terms of better targeting of social welfare programmes and building capacities of social service providers for an early identification and timely provision of help to persons and families at risk of poverty. Within the project, a new preventive counselling programme concerning the family budget management for families facing financial difficulties was developed. Its aim is to teach families how to use their resources more effectively, but also to teach them skills that will enable them access to their own rights and prevent them from running into difficulties.

Ahead of us is a period in which it will be important to analyse effects of all these acts and the extent to which they succeeded in protecting citizens from over-indebtedness, whereby their systematic strengthening by improving economic and social security and possibilities for the responsible assumption and fulfilment of obligation is of utmost importance.

Taxes

As far as tax matters are concerned, we are still receiving complaints about the long duration of second-instance proceedings. According to data by the MF, in 2018, the number of unresolved cases dropped by 27% compared to 2017 as a result of reorganisation and measures related to human resources, which is in line with our recommendation from the 2017 Report. However, the data about 42,117 ongoing second-instance cases in 2018, out of which 7,900 new ones and 17,042 resolved ones, reveal that, still, a large number of unresolved cases from the previous period is transferred. This calls for a further improvement of conditions for handling cases within prescribed deadlines.

We inform citizens who make complaints about the possibility for initiating administrative proceedings if their complaints have not been decided on within the legal deadline. However, they are trying to avoid it and insist that we take some actions instead as it, as a rule, speeds up the proceedings. The MF said that 66 administrative proceedings were initiated for the so-called administrative silence in 2018.

„....following your submission number ... of 14 February 2018, please be informed that the Independent Sector for Second-Instance Administrative Procedure, took a Decision of 26 March 2018, relating to the appeal lodged by the appellant ... against the Decision of the Ministry of Finance – Tax Administration of 29 January 2016, and that the file will be delivered to the first-instance body."

Taking into account cases which involved citizens for whom the collection of a tax debt would endanger their basic everyday needs, we find positive that by increasing a number of employees engaged in the decision taking procedure, the time required to decide about requests for the write-off of outstanding debts due to a debtor's bad financial situation became much shorter. According to the MF, such procedures now last 15 days on average, or they end immediately after the receipt of documentation delivered subsequently.
Relating to the tax policy, in 2018, the MF made and published a subsequent assessment of the effects of some of the tax acts adopted by the end of 2016 and, simultaneously, continued with the tax reform by the introduction of new amendments to a number of regulations, while observing the adoption procedure this time, by starting from their previous impact assessment and in consultation with the interested members of the general public. At the beginning of 2019, numerous new rules in different tax system fields entered into force.

As the most important, we emphasise the reduction of the VAT rate for all medicines and certain foodstuff categories. At the beginning of 2020, the general VAT rate should be reduced to 24%. As low-income households are relatively more burdened by the VAT, the aim of changes was to reduce its regressive effect. The property transfer tax rate was additionally reduced to 3%, and the total contribution rate on salaries and wages from 17,2% to 16,5%. With regard to the income tax, the threshold for the taxation by the highest rate of 36% increased from HRK 17,500 to HRK 30,000 a month. The non-taxable portion of the remuneration for good working results and other forms of additional remunerations was also prescribed amounting to HRK 5,000 a year.

The Ministry of Finance must make an assessment of these tax regulations within two years upon their entry into force, whereby it will be important to verify whether the constitutional criterion saying that each citizen should carry the tax burden proportionate to their economic capacity and that the tax system is based on the principles of equality and fairness has been met.

While social effects were more prominent in the first stage of the reform and related to the income tax first of all, as the basic personal deduction increased from HRK 2,600 to HRK 3,800, as well as the personal deduction for disability and for supported children and other nuclear family members, tax classes were expanded and the income tax rate reduced so that the tax reform included tax payers on low incomes as well, the 2018 changes focused on shifting the tax burden away from citizens on higher incomes with the aim to exert a positive influence on the labour market, entrepreneurial climate, competitiveness of Croatian workers in the international market, and on the growth of salaries of highly qualified employees such a physicians, IT experts, pharmacists and others. This provoked criticism in that measures affected only a small number of citizens on higher incomes and that even the increase in the non-taxable portion of annual earnings will not necessarily bring significant changes for those on lower incomes as they depend on their employees and there is no guarantee they will be paid.

The main goals of the reform are, among others, the reduction in the overall tax burden, to increase the competitiveness of the Croatian economy and the establishment of a socially more just tax

system. Although it is emphasised that one should not seek in the tax reform a solution to social problems, the question remains whether tax changes could have affected poor citizens more significantly.

The Institute of Public Finance emphasised that, with regard to many and complex changes in taxation, it is hard to predict their final impact on the living standards of different social groups. Nevertheless, it is expected that the purchase power would increase for all categories, including people on or below the poverty line. It is also predicted that they would revive the Croatian economy and create new jobs so that the tax policy would have a positive impact on the exercise of citizens' economic, social and cultural rights. The EC estimated in its 2019 Report for Croatia that, due to reduced taxes, the loss of revenues would run at 0.6% of the GDP approximately, but that the tax reduction would boost spending and slightly increase the available income of households. Increase spending, namely, is expected to the extent the VAT rate reduction would lead to the decrease in prices. As it targeted basic goods, low-income households may benefit from it in particular. Changes of the income tax and contributions on salaries and wages should lead to a slight increase in the available household income in all tax classes, whereby it will be highest for citizens with highest earnings, because households on low incomes are mostly exempted from the income tax. The EC also said that these changes might have only a limited positive impact on job creation.

The MF must make an assessment of these tax regulations within two years upon their entry into force, whereby it will be important to verify whether the constitutional criterion saying that each citizen should carry the tax burden proportionate to their economic capacity and that the tax system is based on the principles of equality and fairness has been met.

Consumer Protection

The Consumer Protection Act, harmonised with relevant EU directives, governs the protection of the basic consumer rights when buying products and services or acquiring them in the market in some other way. In 2018, we received, besides complaints about protection rights relating to utilities, to be discussed in a separate chapter, citizens' inquiries about the wholesomeness of products in the market, which we referred to other institutions to which they may turn to in order to protect their consumer rights, as this field is not within our scope of work.

The MEEC received 2,488 complaints made by consumers, out of which as much as 1,137 were founded. In cooperation with all relevant stakeholders, the Ministry drew up the 2017-2020 National Consumer Protection Programme as a strategic document aimed at strengthening the position of consumers so that they may become active participants in the market, and to ensure effective product supervision, especially foodstuffs as their wholesomeness is directly connected with human health. However, it is obvious that the consumer protection system in the RC, despite its normative harmonisation with EU regulations, is not developed enough in practice so that competent bodies should additionally educate citizens about their right as consumers, which is particularly important in the foodstuff segment.

Recommendations:

109. To the Government of the Republic of Croatia, to make a comprehensive analysis of debtors' profiles and causes of over-indebtedness;
110. To the Ministry of Finance, to continue ensuring conditions for timey handling of cases in the second-instance administrative proceedings.

3.17. HOMELAND WAR VETERANS

„...after tests that I did well and after an interview, I was informed by the authorised person that the certificate of my status as a child of a fallen Croatian soldier was annulled because of a sentence in my application for the vacancy stating my reasons for terminating the employment with my former employer, this was not requested in the vacancy announcement, there was no mention that it should be submitted, it was seasonal work. They rigged the said vacancy announcement... what hurts and bothers me most is that someone insulted my father, the Croatian soldier who was killed in 1992 in this way, because of whom I referred to priority consideration for the first time in 26 years after he was killed... what's the point of adopting the act and deceiving the public if I am a living proof that being a child of a killed Croatian soldier amounts to nothing in Croatia."

In 2018, the Act on the Rights of Croatian Homeland War Veterans (ARCWV) and their family members started to be applied, but has not fully meet its expectations so far and solved the accumulated long-standing problems of the veteran population to which the number of complaints that we received over the year points, too. There were 70% more of them as compared to 2017. As the Act aimed at finding comprehensive and viable long-term solutions, we endorsed its adoption and took part in public consultation and the subsequent legislative procedure with our recommendations. Almost all of them, just like the ones from our earlier reports to the Croatian Parliament, were accepted and included in the wording of the Act.

Similar to previous years, complaints were mostly about the (non)recognition of the status of a Homeland War veteran or disabled Homeland War veteran, a difficult social situation of veterans and their family members, the non-recognition of certain period they fought in the Homeland War, housing problems, too long proceedings for establishing material and other rights and the inability to exercise their right of preference in employment opportunities. Almost in all complaints, besides stating their primary problem, veterans also state that society should give more attention to the protection of the values of the Homeland War and the dignity of those who took part in it.

Almost ten years after the expiry of the deadline for the recognition of the status of a Croatian Homeland War veteran, and after more than ten years after expiry of the deadline for the submission of medical documents for the recognition of the status of a disabled veteran due to an illness, the ARCWV enabled again that requests be made for acquiring the status a Croatian Homeland War veteran and disabled Homeland War veteran. Some 6,485 requests for acquiring the status of a Croatian Homeland War veteran were submitted to the MD of the RC, out of which 435 were granted, 730 rejected and the rest are still pending. Some 1,071 requests were submitted to the MI, out of which 320 were granted, 391 rejected the rest are still pending. According to the data of 31 May 2018, competent state administration offices received 8,490 requests for the recognition of the status of a disabled Homeland War veteran due to an illness, relapse or onset of an illness as a result of taking part in the Homeland war.

Obviously, many veterans have not regulated their status and pertaining rights, or have not done it properly. Many war veterans who returned to their jobs after the end of the Homeland War, did not settle this matter until they retired or until they, because of their difficult social and financial situation tried to solve their problems by acquiring the status. On the other hand, a part of veterans started feeling consequences of their war traumas much later, about which we wrote in 2016 already and suggested to the MVA to legally prescribe justified cases for which it will be possible to acquire the status of a Homeland War veteran or disabled Homeland War veteran even after the expiry of the prescribed deadline.

However, it takes too long to have one's status recognised, especially when deciding on requests for the status of a disabled Homeland War veteran, as each case is submitted for medical assessment to authorised medical institutions first, then to the Expert Report Institute, and only then to the state administration office to decide on it.

During 2018, the MVA paid over HRK 1,2 million in one-off benefits amounting to 772 beneficiaries and over HRK 1,8 million in emergency one-off benefits to 1,033 beneficiaries. The number of unemployment allowance beneficiaries rose to over six thousand. These data show that many veterans and their family members are in a difficult financial situation and that they face serious problems when they try to satisfy their basic everyday needs. Therefore, the following rights were recognised to caregivers of 100% disabled veterans of group I: the right to remuneration amounting to the amount of the disability benefit for disabled persons of group I, the rights deriving from pension and compulsory health insurance, the right to a child allowance and rights during unemployment. During 2018, there were 427 of them and they received almost HRK 29 million.

Many veterans have not regulated their status and pertaining rights. Many war veterans who returned to their jobs after the end of the Homeland War did not settle this matter until they retired or until they, because of their difficult social and financial situation, tried to solve their problems by acquiring the status, whereas some started feeling the consequences of their war traumas much later.

In 2018, the MVA provided 66 flats, granted 404 housing loans and financial support amounting to over HRK 46 million and continued reconstructing

deteriorating flats owned by other state bodies. However, needs are still greater than the housing capacity as there are still 10,730 requests for housing loans and 509 for financial support waiting to be dealt with.

What worries additionally, is that certain LGUs, when granting housing loans to war veterans for building a family home in their place of residence, do not give building plots and utility equipment free of fees according to their obligation pursuant to the ARCWV. Many of them, do not even have building plots intended for this purpose in their development plans, because of poorly regulated property rights on state-owned plots of land situated in their area. For example, a veteran with the residence in the Municipality of Sveti Filip i Jakov, who submitted his request 15 years ago, has not been given a building plot yet, and he has been repaying his housing loan from 2004. Despite recommendations and warnings of several public authority bodies and the Ombudswoman, the municipality has not fulfilled its obligation claiming that there are no free building plots intended for this purpose because all cadastral plots intended for building in the municipality's development plan are owned by the RC. In the meantime, this obstacle was removed, too, because in 2018, the Municipality Sveti Filip i Jakov was given, pursuant to the Government's Decision, building land for the construction of the Rabatin residential zone, which included plots for building houses. However, no building plot was given to the said veteran as the Municipality organised a call for tenders for the sale of plots given to it.

Regardless of the new ARCWV, the right to preference in employment opportunities under Articles 101 and 102 is still hard to exercise. The Act has not been applied consistently, and war veteran and their family members are not fully familiar with their rights. A person with the right to preference in employment with state and public law bodies has to refer to this right in the request and enclose evidence that they meet requirements. Often though, it is not mentioned in the vacancy announcement that the certificate of the status as a war veteran should not be older than six months so that persons entitled to the right of preference who submit an older certificate are rejected for formal reasons. According to preliminary data for 2018, the Labour Inspectorate took 70 decisions confirming the violation of the preference right when supervising the application of the right to preference in employment opportunities. As a result, 47 indictments were issued before competent courts.

The MI refuses to issue certificates of the status as a Croatian Homeland War veteran-volunteer to those who enjoyed that status already pursuant to earlier acts, by explaining that, upon the entry into force of the ARCWV, they no longer meet requirements for the said status as they were not part of the combat troops.

The application to the new Act led to the abolishment of certain acquired status rights so that the MI refuses to issue certificates of the status as a Croatian Homeland War veteran-volunteer to those who enjoyed that status already pursuant to earlier acts, by explaining that, upon the entry into force of the ARCWV, they no longer meet requirements for the said status as they were not part of the combat troops. The exercise of acquired rights is of paramount importance from the aspects of

safety and the rule of law and constitute as such a basis of a democratic legal order, as provided for in the ARCWV, which stipulates that the status and rights acquired pursuant to earlier exhaustively listed regulations and acts, the exercise of which lasts on the day of its entry into force, shall remain in force. Therefore, we initiated inquiries based on complaints to establish as to the violation of veterans' constitutional rights on part of the MI.

Besides complaints about their legal position and the exercise of rights, war veterans also point out the need to promote the values of the Homeland War and to preserve the dignity of Homeland War participants and victims and to improve their life quality and heath care. Within this context, the MVA additionally improved the health care system by implementing the programme for hospital medical rehabilitation and physical therapy and preventive health examinations. Furthermore, various programmes are being carried out such as vocational training programmes for veterans and children of those who were killed, detained or went missing, preparatory courses for the enrolment at institutions of higher learning, veteran co-operative support programmes and many others.

Centres for psychosocial assistance provided assistance to 66,200 clients in 76,874 interventions and had 1,096 mobile interventions, while centres for psycho-trauma had 36,203 interventions in the form of examinations and treatments, under the National Programme for the Provision of Psychosocial and Other Forms of Health Assistance. These data show that the demand for such programmes exceeds the existing capacities. Therefore, what needs to be emphasised in particular, is launching of a pilot project relating to the Croatian Veterans Home in Lipik, intended as an accommodation and rehabilitation facility providing psychosocial services to veterans and their family members, including them in health and rehabilitation programmes and alike. Beside the centre in Lipik, the foundation of such homes is planned in Šibenik, Sinj, Petrinja, Daruvar and Osijek. As people from all over Croatia defended the country, such homes should be located more evenly. The implementation of projects such as this one is encouraging in any event, because the system of care and support to veterans should base on their actual needs, the recognition of their contribution to society and solidarity. The present mechanisms to ensure and provide care and support mostly based on pension and welfare programmes instead of a comprehensive rehabilitation programme.

By the end of the year, new MVA offices of Osijek Regional Unit and the county Centre for Psychosocial Assistance opened in Osijek as the first of the three stages of the future Veterans Centre to be located in former Mursa Hotel. This is an important step for Croatian veterans in Slavonia because the Veterans Department of the State Administration Office, the Regional Ministry Unit, the Centre for Psychosocial Assistance and the Coordination of Homeland War Veterans and Victims Associations are now located in the same place. Such consolidation of all offices will surely make it easier and simpler for veterans and their family members and other war victims to exercise their rights. Such solutions should be applied in other parts of Croatia, as well.

Recommendations:

111. To the Ministry of the Veterans' Affairs, to ensure continual training for employees of centres for psychosocial assistance in veterans' rights and needs, procedures and support provision forms, legal and psychological in particular;
112. To the Ministry of the Veterans' Affairs, to speed up the foundation of veterans homes all over Croatia.

3.18. CIVIL VICTIMS OF WAR

„...during the Homeland War I was wounded by a sniper shot. I have documents to prove it, and I am still undergoing medical treatment because of its consequences. However, I have no status as a civilian disabled in the war nor do I enjoy any rights. "

According to CSO data, the exact number of civil victims of war in Croatia has not been determined yet. Their estimates are between 4,000 and 8,000. Only a smaller portion of them enjoy the status as a civil victim of war and exercise the social rights pertaining to them: disability allowance, allowance for the costs of living, care and assistance at home, free supplemental health insurance etc.

Despite many announcements and the fact that more than 20 years have passed since the end of the Homeland War, the Act on the Rights of Civil Victims of War has not been prepared yet as a basic prerequisite for the final solution of all accumulated problems, in relation to which we sent recommendations to the MVA in earlier reports. Namely, responses to the legacy of the past, reparations to victims, care for those who directly suffered or a still suffering from the consequences of war and war crimes, punishing those responsible for crimes committed are permanent challenges from which lessons should be drawn about the value of human dignity and human rights.

In relation to 2017, some negligible steps forward have been made in solving the status and other issues of civil victims of war. War victims trying to exercise their rights within the existing legal framework encounter serious difficulties, such as long procedures in particular. Besides, state administration offices reject their requests, almost as a rule, mentioning the lack of data about the manner and time of suffering or the lack of medical documentation as reasons for rejection. Even when documentation

War victims trying to exercise their rights within the existing legal framework encounter serious difficulties, such as long procedures in particular. Competent state administration offices reject their requests, almost as a rule, mentioning the lack of data about the manner and time of suffering or the lack of medical documentation as reasons for rejection. Even when documentation is enclosed, they are rejected for reasons that are hard to understand, for example due to the lack of a police report about enemy's acts of war at the time when they got hurt.

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Nevertheless, according to the information from the MVA, the Minister made a Decision on Establishing the Working Group appointed to which are representatives of the MI, MVA, MD, MJ, Croatian Homeland War Memorial and Documentation Centre and the Association of the Organisations of Croatian Civil Victims of Homeland War to analyse the situation and draft a Bill on the Rights of Military and Civil Victims of War and their Family Members. The group prepared the working version and noted that the scope of the extension of rights and the moment of referring it to the further adoption procedure will depend on funds ensured for it in the State Budget. However, this should not and cannot be an excuse for not adopting a comprehensive and sustainable act based on the recognition of society of suffering and on moral and material satisfaction. Besides, a new act should also be a result of cooperation and consensus of all stakeholders in society and victims themselves.

Unfortunately, victims have still not been given appropriate institutional, psychosocial or other type of support although the MVA has been running the National Programme for the Provision of Psychosocial and Other Forms of Health Assistance to the Veterans and the Victims of the Homeland War, World War II and to the Persons Returning from Peacekeeping Missions. The backbone of the programme are the 21 county centres for psychosocial assistance. The health care part of the Programme has been provided in the Regional Centres for Psycho-trauma and the National Centre for Psycho-trauma. However, the figure of somewhat below 80,000 interventions which included war veterans clearly shows that the current capacities are insufficient to meet the needs of all target groups.

The issue of the fate of missing and forcibly disappeared persons in the Homeland War still remains the most complex unresolved aftermath of the war in Croatia. In 2018, the remains of 30 persons were exhumed, and the remains of 47 persons were finally identified. The official records of the MVA show that, as of 31 December 2018, the number of persons still reported missing was 1,497. There are 414 requests for the search for mortal remains of killed persons with unknown burial place, which makes 1,911 unresolved cases, out of which 900 persons of Serb ethnicity. Although the MVA Directorate for the Detained and Missing Persons undertook a number of activities in 2018 relating to the search for missing persons and mortal remains of persons killed in the Homeland war (they gathered and processed data on 45 possible sites of hidden individual and mass graves and conducted comprehensive field research, including test excavations on 48 locations, in that they found and exhumed the mortal remains of 30 persons, conducted field investigations on 78 micro-locations that are being prepared for test excavations), in the forthcoming period, it will be necessary to increase efforts to solve these cases because for families of missing persons years are passing in hope and expectations that, by searching for missing persons or for their mortal remains, they will discover the truth about the fate of their family members. It is for that very reason that family members of missing persons should be given more detailed information of measures and activities implemented to find them and, if possible, include them in the process of searching.

Despite statistical data provided by the of the State Attorney's Office and their statements that they are continuously working on war crime cases and that statistical data do not show stagnation, but the opposite, victims and the general public are of the impression that not much progress has been made.

Many family members of persons killed in war, sexually abused civilians and camp prisoners and other victims of war are still waiting for the prosecution of war crimes. In our Report of the last year, we pointed out the need to improve the non-selective prosecution of war crimes. However, despite statistical data provided by the of the State Attorney's Office and their statements that they are continuously working on war crime cases and that statistical data do not show stagnation, but the opposite, victims and the general public are of the impression that not much progress has been made. This perception changed only slightly after the demonstration in Vukovar in September, when the executive, legislative and judicial authorities were criticised for doing nothing to prosecute war crimes committed during the war in Croatia in 1991 and the temporary occupation, after which some investigations were launched and several indictments issued. According to data from the 2017 Report on Justice System, in four county courts deciding on war crime cases, in Rijeka, Osijek, Split and Zagreb, 16 cases were received, 14 decided on and there were 97 proceedings still pending during 2017. The average time required to decide on a case was 2,529 days. Besides that, in the SAO war crime database, which contains systemised data about all crimes that were committed from 1991 on, not only in the territory of the RC, but of other states where Croatian citizens were victims, records are kept of almost another 500 crimes. Therefore, it is necessary to increase efforts to prosecute them.

In order to improve and facilitate further regional cooperation in the prosecution of war crimes and in finding missing persons, it is crucial to improve the existing agreements and treaties with Serbia. This is supported by the fact that on pat of the RC, these issues presented conditions imposed on Serbia for opening Chapter 23 in their accession negotiations, so that the formulation highlighting "the need for regional cooperation and good neighbourly relations in the prosecution of war crimes including the aim to avoid the conflict of jurisdiction" was included in the common EU negotiation positions at Croatia's request. Besides, the 2016 European Parliament Resolution on the Report on Serbia highlights the need for regional cooperation in the prosecution of crimes, the search for missing persons and mortal remains as well as on the exchange of information. At present, the cooperation takes place based on general and special prosecutor's agreements and treaties on international legal assistance which enabled direct contacts between prosecution services and the exchange of information, and taking actions in preliminary criminal proceedings, or the exchange of evidence from actual criminal cases in cases when perpetrators are inaccessible to the judiciary bodies of an individual state, but such data are of informative value only for the other state, unlike the cooperation based on international legal assistance when they can be used in the proceedings in another state. When investigating into war crimes and searching for missing persons, besides existing mechanisms of regional cooperation, publicly available files and other archive materials contained in ICTY databases and cooperation with victim CSOs may serve as a valuable source of information.

Victims who sought civil legal remedies through civil suit for intangible loss due to the death of a close person were unsuccessful and now have to pay high legal costs, mostly because their claims were dismissed because of material or procedural reasons. In the light of this, the Government of the RC should analyse regulations and find a way how to cancel its claims for litigation costs for persons who sued the RC based on the Act on the Liability for Damage Inflicted due to the Acts of Terrorism and Public Demonstrations and the Act on the Liability of the RC for Damage Caused by Members of the Croatian Armed Forces and the Police during the Homeland War, something that the Government has already included in its Operational Programme for National Minorities. Besides, it is necessary to make every effort so that survivors could obtain fair compensation and acquire other rights in accordance with the UN General Assembly Resolution concerning compensation, restitution, rehabilitation, resolution of the fate of missing persons, symbolic reparations and a guarantee of non-repetition of crimes and the UN Basic Principles and Guidelines on the right to a remedy and reparation for victims of gross violations of international human rights and serious violations of international humanitarian law.

According to the Act on the Rights of Victims of Sexual Abuse during the Armed Aggression in the Homeland War, the Commission for Victims of Sexual Abuse of the MVA received only 37 requests in 2018, out of which 21 were granted. From June 2015, when the Act started to be applied, the MV received some 250 requests for the status of a victim of sexual abuse in the Homeland War, out of which men submitted 70. The Commission granted 153 requests. However, the actual number of victims remains unknown just as most of perpetrators. Some of the victims died or left the country. As most victims are reluctant to report this type of violence out of fear or to avoid being stigmatised, they should be encouraged to make a request and exercise the rights pertaining to the status. According to unofficial estimates by CSOs, namely, on each reported case of social violence, there are more than ten unreported ones. A sociological UNDPA study from 2013 under the title "Estimated Number of Victims of Social Abuse during the Homeland War in the territory of the RC and Optimum Forms of Compensation and Support to Victims" estimated that the number of victims of more serious forms of sexual violence in the RC might vary between 1,500 and 2,200 which means that only slightly above 10% of them submitted the request.

Recommendation:

113. To the Ministry of the Veterans' Affairs, to draft a Bill on the Rights of Civil Victims of War and refer it to the Government.

3.19. HEALTH

„My mother underwent a surgery of right leg meniscus on 18 December 2017. After that, her agony started and has continued for 3 months already. Her leg has swollen, inflammatory parameters are terrible, urinary tract infection, decubitus etc. She is bedridden (she came to have a surgery on her feet), is incontinent, started having mental problems. She requires a 24-hour care, and our DOCTORS sent her home and prescribed her antibiotics despite her antibiotic hypersensitivity, as they do not read what her documents say (there are too many of them), just to get rid of their part of her problems. Doctors said they would implant a prosthesis (artificial knee), but no one wants to perform the surgery. They told us that we ourselves should find a doctor who will do it. We do not know what to do anymore, so that we are turning to you. I believe that she should enjoy certain rights as she has been paying health insurance all her life .“

Despite the proclaimed principles of the Health Care Act (HCA), judging by the complaints that we receive, the right to health care is far from being exercised. A study of the Centre for Peace Studies proves it. According to their study, the right to equal access is influenced by factors such as geographic distance from health services, their uneven distribution on the territory of the RC, availability of medical personnel, equipment and medications and others. Moreover, the 2019 EC Report for the RC says that due to continuous negative health indicators, such as life expectancy, which is shorter than the EU average, or the share of cardiovascular and malignant diseases in the total number of deaths, which is higher than the EU average, there is a need for redirecting investments to improve health care accessibility and efficiency.

According to the 2016 Barometer of Croatian Society data, citizens' trust in health system institutions, on the scale from one to ten was given the mark 5.21 by respondents, and the trust in their general practitioner, on the scale from one to five, 3.97. 2018 Eurobarometer results show that health care and social insurance, besides unemployment, economic situation and the increase in prices and costs of living present the most important difficulties that citizens in the RC encounter.

The new HCA, which entered into force on 1 January 2019, defines the health profession as a public service and profession of interest for the RC. However, the Act introduced the concept of the doctor's office as a form of practising health profession as a private practice. It is up to counties to decide on the number of private doctor's offices and of those remaining within community health centres, taking into account that in each medical profession up to 25% at most must remain within community health centres which presents privatisation of the health system, instead of keeping primary health care within public health care. In particular, this raises the issue of availability of primary health care in rural, deprived and isolated areas, where the lack of doctors is felt strongly. in the course of public consultation, we suggested that community health centres be preserved as public health institutions that are equally accessible to each citizen, instead of introducing a private practice, but our suggestions were rejected without explanation. According to information available

to the Ombudswoman, such solution is not based on any strategic document, analysis or alike, as confirmed in the 2017 EC Report on Health and Health Protection, which says explicitly that health reforms in the RC often lacked a strategic basis and predictions that the general public might analyse and examine thoroughly, and that, during the draft preparation and implementation, little attention was given to opinions of experts and to the experience of persons providing health care services. However, the time will show effects of this new HCA, and will continually monitor what will happen.

The Ordinance on the Medically Acceptable Time Period for Receiving Medical Services has not been adopted yet although, pursuant to the latest data of the MH, this should have been done by the end of 2018 based on the Action Plan for the implementation of the 2017-2019 National Anti-Discrimination Plan. This recommendation can be found in all Ombudswoman's reports from 2014, but the MZ postpones it by way of their normative activities plan to the next year each time.

„December 2018? Of course, this does not suit me, you must have been kidding!!! Namely, as the finding of my specialist- oncologist, that I sent you, shows, it is obvious that I am an oncological patient referred to the said diagnostic test which should be done no later than 6 June 2018. Besides that, it is also obvious that I am a patient of your CHC, that is of the Tumour Clinic as your special clinic. I also emphasise that when making an appointment I relied on data from the CHIF appointment list according to which in your institution, one has to wait for an appointment for three days, which is available on the Internet. Therefore, I do not understand at all, who gets to be examined at your clinic and which patients have advantage if oncological patients do not have it. Needless to say, that an appointment in six-month time is out of question, an insult almost."

According to CHIF data, waiting lists for the first specialist examination and the follow-up were reduced in relation to the total number of appointments. On 5 January 2019, there were 184,197 patients having an appointment for their first specialist examination, and 384,168 for follow-up examinations; this makes 568,365 in total, which is less than in the previous year, when the figures ran as high as one million. The average waiting time for the first examination is 130 days, and 145 for the follow-up. This positive shift is probably a consequence of several factors, such as deleting double appointments, contracting additional diagnostic treatments in private health care institutions at the expense of the CHIF and the introduction of priority waiting lists, which are no longer a pilot project but a regular manner of appointing patients assumed to be seriously ill. However, certain diagnostic and therapy treatments still have too long waiting lists – for a breast ultrasound 24,675 patients have to wait for 327 days on average, for an MRI 19,393 patients have to wait for 342 days on average, while the longest waiting list is the one for the wrist arthroscopy procedure, 867 days on average. Besides that, according to 2017 CBS data, the population of the RC dropped by some 32,000 due to migration which also influences the number of required health services.

The CHIF operates and updates the search engine for waiting lists for available appointments on their official web sites. However, during 2018, patients often complained about incorrect data they obtained. According to CHIF's explanation, contracted health centres, which are responsible for data

correctness, send their data on available appointments for examinations and diagnostic and therapy treatments. As they are not updated, the search engine does not meet its purpose. As a competent body for supervising the fulfilment of obligations by its contractual entities, the CHIF should obtain a direct insight into the waiting list system, instead of relying on data delivered. Transparent waiting lists could be ensured by connecting the CHIF to the hospitals' IT systems for appointments, enabling the CHIF access to correct data on the first available appointment date for certain examination/treatment at any moment. In its 2019 Report for the RC, the EC points to the need for improved health care computerization to increase system efficiency.

„Dear Sir or Madam, could you tell me, please, why do I have to go with a sick child to a crowded waiting room full of sick people just to get a certificate of temporary unfitness for work from my doctor, which I then again have to deliver to my employer, while carrying a sick child on my hands?! Besides from jeopardizing my child's health, wasting time and money for my car and parking tickets. Shouldn't physicians have their own official e-mail, you already have the domain, to make things easier for us, at least a bit. In the 21st century, when you can send any document to another part of the world within a few seconds by cell phone, we have to carry papers with sick children on our arms between general practitioner's offices and other institutions just like postmen...The same goes for referral slips and findings, the nurse prints the referral slip and the finding and then I, just like a postman, have to carry them to another institution within the same Ministry, while one click by mouse only will do. As you already have computers and databases, all you need is that someone on the top imposes e-communication to general practitioners, unless they prefer crowded waiting rooms... "

The Act of the Protection of Patients' Rights (APPR) guarantees to each patient the right to being informed about their condition, treatment, possible risks and advantages of recommended examinations or treatments, the right of access to medical documentation, confidentiality of data on their health status, privacy when being examined, treated or receiving care etc. Furthermore, the Act also guarantees a human treatment when protecting these rights, the respect of patients as human beings, including the respect of their privacy, world view and moral and religious belief.

Citizens are not familiar enough with the existence and role of county commissions for the protection of patients' rights. Although some of them have made efforts to be recognised as a part of the mechanism for dealing with citizens' complaints about the availability and quality of

Bodies that should, according to the APPR, ensure the protection of these rights are county commissions for the protection of patients' rights. However, in 2018, they received only a small number of complaints, about the quality of treatment, the conduct of health professionals towards patients and improper communication manner, poorly kept medical records or their being unavailable to the patient and alike. Although it is mostly obvious from the contents of annual reports on their work

and data delivered to the Ombudswoman that they perform their tasks in accordance with the APPR, it is also quite obvious that citizens are not familiar enough with their role and existence. Some county commissions increased their efforts to be recognised by giving announcements in the local media, distributing leaflets and placing boxes for complaints in health care institutions. However, most of them do not do it, so that information about the possibility and manner of filing a complaint can be found on county or county commission websites only. For these reasons, for example, the Commissions of the counties of Požega-Slavonia and Split-Dalmatia received no complaints in 2018. An exception is the Commission for the Protection of Patients' Rights of the City of Zagreb, which received 271 complaints.

The APPR lists the rights of patients but foresees no control mechanism for their protection. By way of Rulings of the Constitutional Court U-I-4892/2004 and U-I-3490/2006 from 2008, Article 35, which provided for a complaint as a means of protecting rights, was abolished and the legal loophole, that was created then, has not been filled yet. By way of this, the patient right protection mechanism remained incomplete, which calls for amendments to the APPR.

Complaints that we received in 2018 mostly referred to the right to information on one's condition, improper communication manner on part of health professionals and the unwillingness of the management of health care institutions to give a reply. A part of complaints concerned the fact that they received no answer from the CHIF about patient rights, either by phone or by e-mail. It is important, therefore, for the CHIF to continue implementing measures that will increase its accessibility to citizens, according to the recommendation from the 2017 Report.

Patients also sent their complaints to CSOs, to the Roda Association, for example, expressing their dissatisfaction with the disparity in health care availability, improper communication and unprofessional conduct of health professionals to patients, the uneven quality of medical records keeping, of the health system being too closed for patients, illegal charging of examinations to pregnant women by physicians of their own choice and alike.

„I hardly recognised my own child. Every organ on his body was connected to machines. I could only see his two teeth. Everything was cold. His legs were blue, so were his hands. He was in a coma... Such Injustice hurts us just as stories people tell. Once again we plead with you, if you have any morals and love for all children, that this be a warning for all of us and that this matter be fully investigating, for my Gabrijel and other children who live in our town. So that emergency care would not become a funeral home "

Health services in the RC are not equally accessible for everyone, depending on the geographic region, population density, on how remote they are, number of health institutions and other factors. The lack of primary health care protection teams is most prominent in four basic services: in general/family medicine with 118 teams missing, mostly in the counties of Zagreb, Brod-Posavina, and Varaždin; in paediatrics with 51 team missing, mostly in the City of Zagreb, the counties of Brod-Posavina and Međimurje; in gynaecology with 59 teams missing, mostly in the City of Zagreb, the

counties of Zagreb, Osijek-Baranja, in dental health care with 259 teams missing, mostly in the counties of Zagreb, Osijek-Baranja and Vukovar-Srijem. In the Municipality of Plaški nobody applied for the vacancy for general practitioner, even after nine vacancy announcements, in Knin, ophthalmologist and dermatologist services are available once a week only, while emergency care in Tisno is provided by T2 teams (with no physician), even in summer, when there are more interventions because of the tourist season. The Commission for the Protection of Patients' Rights of the Virovitica-Podravina County warned that there is no orthodontist in their county. Insularity, but other factors as well, lead to reduced availability of healthcare services on the islands, which is discussed in the chapter on uneven regional development.

These problems manifested themselves unfortunately in a tragic incident that took place in December 2018, when a nine-year old boy died in Metković, although, because of the boy's obviously serious condition, his father sought medical help for four times in 20 hours. Acting upon complaints of the boy's parents and the physician who took part in boy's medical treatment, and whom the Expert Commission of the Croatian Medical Chamber (CMC) accused of professional misconduct, at the beginning of 2019, we warned the MH about the need for additional medical supervision and for adjusting the Public Health Care Service Network to the actual needs of citizens. As the investigation in this case shows, with regard to possible professional omission on part of physicians, the MH referred the Expert opinion of the Health Inspection Service and the Professional Opinion provided by the CMC to the SAO of the RC, but criminal responsibility for medical treatment or its omission does not exclude the professional misconduct or disciplinary or some other kind of responsibility. However, the supervision by the MH, CMC and the Croatian Nursing Council (CNC) conducted so far provided no clear answers to numerous questions, that are still open and concern professional and organisational defects and omissions. The MH provided no answer to our question as to whether the Community Health Centre in Metković meets the minimum requirements from the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare, also whether other health community centres in the RC meet these requirements, and what measures have been taken to eliminate possible deviations. For the provision of health care services to be available and of good quality for citizens in all parts of Croatia at any moment, it is necessary that all doctor's offices have equipment and instruments that are required for health examinations and diagnostic and therapy treatments.

Besides, the MH and competent chambers are under obligation to conduct a comprehensive, impartial and independent investigation about all circumstances leading to this tragedy and provide answers as to who made a mistake and in what way. As stated in the dissenting opinion in the Constitutional Court Ruling U-IIIBi-1385/2018, a loss of human life which is a direct consequence of actions on part of responsible persons, commits to high and strict supervision standards. This includes, besides gathering precise data and information that corresponding services have, also testimonies of witnesses that might shed light to all circumstances, because the initiation of other corresponding legal proceedings such as criminal prosecution, disciplinary measures and those for professional misconduct depend on the official investigation being comprehensive, objective and

impartial. Moreover, any shortcoming in the investigation influencing its purposefulness points to the non-observance of its principles.

It would be good to additionally define the role of the CMC in examining and supervising the professional work of physicians and, while observing its legally defined role as an independent professional organisation, which presents doctors of medicine, to re-examine its independence and impartiality when conducting supervision.

Furthermore, in this concrete case, it is not clear from the expert opinion provided by the CMC whether it is given in an administrative or non-administrative procedure, what remedies are available to a physician whose work is under supervision, is there a possibility of reviewing the CMC expert opinion should it appear likely that it contains shortcomings calling into question its validity, and if there is, who is authorised to conduct a review and make an assessment and in what kind of procedure. What seems problematic is the fact that the CMC sent its opinion to the Court of Honour who made a decision on initiating the disciplinary proceedings, only to suspend them and wait for " the judiciary bodies to decide". At the moment we are writing this Report, as far as we know, no criminal nor any other proceedings have been initiated. Even if they have, the CMC Ordinance on the Disciplinary Proceedings prescribes that the Court of Honour may suspend the proceedings. Unfortunately, this creates a deep distrust and uncertainty and leaves an impression of a cover-up, proving at the same time that it would be good to additionally define the role of the CMC in examining and supervising the professional work of physicians and, while observing its legally defined role as an independent professional organisation, which presents doctors of medicine, to re-examine its independence and impartiality when conducting supervision.

In this case, the issue of the responsibility and authorities of nurses was also raised. The Medical Practice Act explicitly prescribes that only doctors of medicine may pursue the medical profession and establish the existence or non-existence of an illness, physical impairment or abnormalities by examining the patient. On the other hand, the Nursing Act prescribes that the practice of nurses includes exclusively the procedures, knowledge and skills of medical care, so that a nurse may not conduct procedures outside her scope of work, and may either directly or indirectly harm the patient. However, it became usual in practice, and, according to the Expert Opinion, undoubtful for a nurse to assess patient's condition, which is illegal and should be taken into account when organising health care on all levels.

The worrying thing in this particular case is the fact, that despite requested additional explanations, the MH, CMC and CNC did not answer many questions about omissions made on 10 December when the father sought help for a seriously ill boy in several doctor's offices in the Community Health Centre in Metković. For example, why no laboratory test has been made before boy's arrival to the Split CHC; how can it be that doctors refuse to examine a sick child; why no one talked to the father in the course of the expert supervision, although the CMC Ordinance on Expert Supervision permits it; why did the nurse assume the responsibility for assessing how serious boy's condition was; why

did they charge the physician with not administering an antibiotic that was not available to her and many other questions. Also, the Expert Opinion provided by the Health Inspection Service of the MH contains meagre data only, while they placed so much trust in statements given by physicians and other health professionals who took part in the treatment without any additional verifications, analysis or expert assessment, despite possibilities granted pursuant to the Act on the State Administration System.

In our Reports to the Croatian Parliament, we always warn about uneven access to health care affecting persons who live in isolated remote areas of the RC, far away from bigger towns and hospitals, and that efficient health care should be ensured all over the country, taking into account the principles of comprehensiveness, continuity, availability and subsidiarity and functional integration. To be precise, this would imply available, quick and efficient diagnostic treatments in general practitioner's offices as well, which constitute the first line of defence of all patients, as well as the establishment of a system that will enable timely, efficient and comprehensive health care to all citizens, on the highest level possible.

The emergency medicine network in the system of outpatient emergency medicine foresees 709 T1 teams (with a physician), 205 T2 teams (without a physician), 31 stand-by team and 105 report and call teams. According to CHIF data, arrangements for all teams have been made, except in the Emergency Medicine Institute in the county of Bjelovar-Bilogora, Grubišno Polje unit, where arrangements have been made for 5 T2 teams and one team on call, instead of 5 T1 teams, as they have no physician. As the lack of physicians is strongly felt in the emergency medicine system, T1 teams are filled by rescheduling physicians who are available or by contracting with health institutions or private medical practitioners. The lack of physicians does not relate to specialist in emergency medicine only, but to doctors of medicine as well, because, according to the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for the Practice of Emergency Medicine, a T1 team physician may be either a specialist in emergency medicine or a doctor of medicine.

The lack of a physician in T2 teams is contrary to article 16, Medical Practice Act, pursuant to which emergent conditions are conditions where patient's health or life could suffer permanent detrimental consequences due to the non-provision of medical assistance. We pointed this out as early as 2016, in the course of public consultation on the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for the Practice of Emergency Medicine. However, despite our suggestions, the Ordinance entered into force in its present form.
The Commission for the Protection of Patients' Rights of the County of Osijek-Baranja also proposed on several occasions, but with no success, to the MH to introduce changes to the Emergency Medicine Network because of the problems the Emergency Medicine Institute in Beli Manastir encountered, where only 5 T2 teams are planned. The Baranja region covers a large area, is far away from the Osijek CHC and isolated in traffic terms. Its population is mostly of advanced age in deteriorating condition, and they have only an emergency team without a physician available for treating critical patients requiring an urgent medical treatment.

The issue of T1 team availability was much discussed after the death of a young man in Zaprešić in August 2018. After a call has been made requiring an ambulance with a physician, a team without a physician reached the young man who was critical. The Ombudswoman initiated an enquiry and requested information from the MH about this particular incident, but also about the organisation of the emergency medicine system and its availability. However, the data we received do not show whether the supervision found any omissions in the way the emergency medical services in the area of Zaprešić are organised and function. According to the Emergency Medicine Network, the County of Zagreb, with the population of over 300,000, is covered in 9 towns and 25 municipalities by 45 T1 teams, out of which 5 T1 teams cover Zaprešić Unit of the Emergency Medicine institute, which turned out not to be enough. In the statement made by the Head of the County Emergency Medicine Institute and the County Prefect, it says that, due to insufficient number of teams, two physicians were provided for 24 hours by way of co-financing, and that the County made a proposal to the MH to expand the Emergency Medicine Network. We do not know what the MH replied.
Therefore, an emergency medicine system comprising teams with no physician, with an insufficient number of teams to cover certain area, or where urgent medical assistance has not been provided on time, is unacceptable and its reorganisation necessary. Nevertheless, the MH postponed the project to establish Helicopter Emergency Medical Services, announced as early as 2014, to 2021-2027.The reform of the emergency medicine system, which started in 2009, did not produce expected results so that amendments to the Ordinance on Minimum Standards for the Practice of Emergency Medicine and an extension of the Emergency Medicine Network seem inevitable. However, it is encouraging that, according to data of the CEMI, investments have been made into education of health professionals so that 165 physicians enrolled on the specialist course of study in emergency medicine, while 18 of them completed their specialist studies.

Each person should be entitled to availability of medications, including the expensive ones. The MH only partially implemented the recommendation from the 2017 Report concerning the systematic financing of expensive medications, by ensuring additional funds in the Expensive Medication Fund whose budged increases each year. Citizens' complaints together with media reports revealed that that the sum available in the Fund during 2017 was not enough to ensure therapy for each patient who needed it. Additional funds for expensive medications were raised by voluntary payments into the account intended for such payments. There is no doubt as to the usefulness of the raised funds, but this financing manner based on voluntary payments cannot constitute an efficient system to finance expensive medications.

Each dying patient should have equally available palliative care, or the right to the best quality of life possible until their death. Its essence lies in preventing and mitigating pain and suffering, both physical and spiritual. Such care is needed in the most critical stage of life when no medical treatment can restore physical well being to the body. Palliative care capacities in the RC are insufficient to meet citizens' needs. Although, according to the National Programme for the Development of Palliative Care in the RC for the period 2017-2020, the deadline for making arrangements for all of its organisational forms is 31 December 2020, the process is still slow. In permanent care wards of community health care centres, namely, the Public Health Care Service Network foresees 83 palliative

beds, but on the beginning of 2019, nothing has been arranged yet, although palliative beds are as needed as in hospitals. However, not a single community health centre has obtained approval from the MH for the provision of palliative care by providing palliative beds so far, although 25 out of 49, requested it.

Throughout 2018, 363 palliative beds were contracted with general and specialised hospitals and with only one palliative care facility. According to the National Programme for the Development of Palliative Care, the number of palliative beds needed was estimated between 349 and 429, so that it is certain that there is shortage of them as long as no beds are ensured on the tertiary level, that is in clinics, clinical hospitals and clinical hospital centres. It remains to be seen to what extent will this solve the problem of insufficient capacities.

Furthermore, contracts have been concluded with only 29 of 52 palliative care coordinators, foreseen by the Public Health Care Service Network, with 22 of 52 foreseen mobile teams, in 16 community health care centres. These data undoubtedly show that palliative care is still not available to those who need it and that the recommendation from the 2017 Report to speed up the dynamics of establishing all forms of palliative care has not been implemented.

The outflow of doctors and nurses from the RC, also reduces the availability and quality of provided health care services. 122 nurses applied to the CNC to temporarily resign their membership as they are going abroad. On the other hand, 1,616 physicians informed the CMC of their intentions to leave the RC. If we add 4,000 physicians who will retire in the next few years to these figures, it is obvious that chances for the Croatian health care system to have sufficient personnel with required knowledge, skills and competences to take care of the health of Croatian citizens are getting smaller.

Recommendations:

114. To the Ministry of Health, to adopt the Ordinance on the Medically Acceptable Time Period for Receiving Medical Services and to take measures for reducing waiting lists;
115. To the Croatian Health Insurance Fund, to ensure transparent waiting lists by further computerization of the system;
116. To the Commission for the Protection of Patients' Rights of the Ministry of Health, to propose to county commissions for the protection of patients' rights to take appropriate measures to introduce the public about their role and scope of work;
117. To the Ministry of Health, to draft a Bill to amend the Act of the Protection of Patients' Rights, which would ensure an efficient legal remedy, pursuant to the Ruling and the Decision of the Constitutional Court U-I-4892/2004 and U-I-3490/2006 from 2008;
118. To the Ministry of Health, to take appropriate measures to provide in health institutions regular education for health professionals on patients' rights and the conduct and communication manner towards patients, in accordance with requirements of medical and deontological
119. To the Croatian Health Insurance Fund, in increase their efforts to inform citizens, especially the most vulnerable ones, on their rights deriving from health insurance;

120. To the Ministry of Health, to conduct supervision with regard to the supply of medical and technical equipment of health care institutions all over the RC, in accordance with the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare, and to pronounce measures aimed at eliminating observed defects;
121. To the Ministry of Health, to make every effort to ensure a systematic solution for the financing of expensive medications;
122. To the Ministry of Health, to speed up the dynamics of establishing all forms of palliative care and to ensure sufficient capacities on all levels of heath care.

3.20. DISCRIMINATION IN THE AREA OF HEALTH

"Health is a human right. Nobody should not fall ill or die because they are poor or because they have no access to the basic health services", said the head of the World Health Organisation, dr. Tedros Adhanom. Health care is a system which enables access to health and constitutes much needed social good which should be accessible to everyone under the same conditions. However, last year we saw developments pointing to financial, organisational, infrastructural and human resources-related problems of the health care system because of which the right to health is becoming a privilege, while the most vulnerable social groups, burdened with unfavourable material circumstances, position or advanced age, lower education or some other feature, increasingly encounter difficulties in their access to health care.

Since only the public health care service may ensure fair and general availability of the system, we as the central body for combating discrimination, emphasised once again in the course of public consultations about the already adopted Health Care Act the importance of improving public health care which presents a civilizational achievement, and guaranties social responsibility in the distribution of health care to all members of society and needed solidarity between the healthy and the sick, the rich and the poor, the young and the elderly. However, the new HCA failed to clearly separate public health care from the private one, or to determine clear and transparent rules of their cooperation, which would contribute to a better quality of health care services. Therefore, at the moment of ever intense migration, the preservation of public health care of good quality and available to everyone under the same conditions may and should be considered as a strategic measure of the demographic policy.

According to the 2018 EC Report on the Prevention and Correction of Macroeconomic Imbalances, the RC does not have many health care related needs that have not been met, except in case of persons over 65, especially in relation to the population on the islands and in isolated rural areas, were Croatia recorded poorer results than other EU member states, much below the European average. Therefore, we suggested, by way of e-consultations on the draft Bill on the Health Care Quality, although it is of a technical nature adopted to implement the 2018 National Reform Programme, an additional improvement of the comprehensive health care quality. However, our proposals to introduce obligatory accrediting of all health care stakeholders and precise elaboration

of provisions on financial privileges that accredited stakeholders enjoy, were rejected without explanation.

The RC does not have many health care related needs that have not been met, except in case of persons over 65, especially in relation to the population on the islands and in isolated rural areas, were Croatia recorded poorer results than other EU member states, much below the European average.

The shortage of health professionals leads to the concentration of services in big cities, while remote rural areas are understaffed and deprived financially in this segment as well. We discuss this issue in detail in a separate chapter. The RC ranks 24th on the European Health Index, which marks the efficiency, quality and availability of health care systems. What led to the loss of scores are factors such as poor treatment outcomes, unavailability of health care, including waiting lists. According to CHIF data, no service of the primary health care has been sufficiently staffed, so that 118 family medicine teams are missing, 51 in the primary health care of children, 59 teams in the health care of women and as much as 259 in dental health care.

When discussing discrimination in the area of health, long waiting lists are hard to avoid, which affect most severely the most vulnerable social groups, above all those who are seriously ill, those of lower income, with no money to see the private practitioner. Although different measures were imposed in the trecent years to reduce waiting lists and to carry out examinations in medically optimal period, they still produced modest results. Moreover, despite clear indicators that waiting lists are, due to additionally worsened condition of patients, the most expensive way of treatment, they became even longer for certain procedures in the last year, because of administrative limits or quotas imposed by the CHIF. The CHIF says in their statement that they are working on the reduction of waiting lists and on ensuring the availability of health care, that certain procedures are being contracted with private clinics, but that here, too, there are quotas for examinations with the CHIF's referral slip, and they are filled quickly too. Therefore, such practice may be looked at as an indirect way of referring patients to private clinics where they have to pay for an examination. On the other hand, due to high prices, a one-segment MRI, for example, which in a private clinic,with a discount, costs HRK 1,200 is practically unattainable to many patients.

Furthermore, following from statements made by county commissions for the protection of patients' rights, in smaller counties, with poorly developed health care infrastructure, it is more difficult to get a second opinion granted by the law. Patients from smaller towns and municipalities have to go outside their place of residence, even their county, to get it, which means that they have to travel to a bigger town with more health care facilities. However, the CHIF does not cover even patient's travel costs, let alone of the person accompanying the patient, which produces a discriminatory effect, especially in relation to persons on lower income, who, in such cases, give up the possibility of getting the second opinion.

The lack of guidelines is still a problem that might lead to unequal treatment in the area of health protection. According to the expert opinion of the MH concerning a case of the improper treatment

of women in Croatian clinics for gynaecology and obstetrics, which received much media coverage, there are no guidelines in this health care segment so that the application of epidural analgia and anaesthesia for invasive diagnostic and therapy procedures differs from one clinic to another. The manner of keeping medical records also differs, all of which may be the cause of improper and discriminatory treatment. The MH supervision did not result in any concise and binding measures to be imposed in order to improve the treatment of women within set deadlines, so that same problems occur continuously. The failure to solve them, results sometimes in massive media coverage of cases concerned. That the treatment of women in the Croatian health care system presents a serious problem, also jointly confirm the UN's Special Rapporteur on Violence against Women, Dubravka Šimonović, the chairwomen and rapporteur of the Working Group on Discrimination of Women, Ivana Radačić, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Pūras, in stating that the RC should adopt all required measures for preventing the violation of women's reproductive rights in whatever form.

The death of a young man in Zaprešić raised the issue of the availability of the emergency medical service, which is burdened by the shortage of physicians, but also by problems within other services of the health care system. According to CHIF data, in 2017, there were 796,982 interventions of the outpatient EMS, but only 40% cases were really urgent cases. As emergency care is often the only assistance available to chronic patients, as there are no hospices or palliative care, they also provide their services to terminally ill patients, which, on one hand, points to serious shortcomings in the health care organisation, while on the other, reduces the quality of health care for urgent and chronic patients. According to the CEMI, an intervention within 3 to 5 minutes is crucial for a patient to survive sudden cardiac arrest, but despite numerous activities undertaken to ensure timely emergency medical assistance, in that particular case the EMS arrived in 15 minutes, and during that time two more persons died in the same county while waiting for the EMS to arrive. As the HCA guarantees the right to health care and to the possibility to enjoy the highest attainable standard of health, the statement shifting the responsibility for the timely available EMS to LGUs, who, as stated in the MH statement, may also ensure health care, which is above the standard one, is unacceptable.

As we learn from complaints that we receive, and which the CHIF statement confirms, there is a practice of administrative cancelation of the certificate of temporary unfitness for work on part of the CHIF, whose supervisors may terminate sick leave, without having examined the patient directly or having a direct insight into patient's condition. Without a comprehensive examination of each individual case and reasons for long-term sick leave, as well as without consideration of all objective difficulties on the system level (such as inability to undergo a diagnostic treatment or unavailability of therapy treatment) cancelling sick leave to an ill person may be treated as unequal treatment which, again, most severely affects the most vulnerable society members, whose access to health care is made more difficult and who are deprived of exercising their right to be temporarily declared unfit for work, due to poverty, poor social networking or a serious or severe condition. Contrary to the assessment of a primary health care physician, the CHIF cancels the certificate administratively for quick and short-term savings of funds. The quota principle slows down medical treatment directly

influencing the duration of sick leave, treatment outcome and other costs related to being absent from work.

According to data of the National Cancer Control Programme, the cancer mortality rate in the RC is the highest in the EU, caused by the reduced availability of quality oncological care, the lack of personnel, of radiotherapeutic or other sophisticated equipment, the lack of the multidisciplinary approach in oncology, oncological quality databases, quality control and, finally, of the insufficient investment in all aspects of oncology. As much as 30% of cancer patients in the RC undergo wrong treatment because of inadequate diagnostics.

Furthermore, delays in diagnostic procedures influence the mortality rate from cancer, which is still one of the highest in the EU. According to data of the National Cancer Control Programme, this is a result of the reduced availability of quality oncological care, the lack of personnel, of radiotherapeutic or other sophisticated equipment, the lack of the multidisciplinary approach in oncology, oncological quality databases, quality control and, finally, of the insufficient investment in all aspects of oncology. As stated further, as much as 30% of cancer patients in the RC undergo the wrong treatment because of inadequate diagnostics. Although the approval of new oncological medications gives rise to optimism, their administration is possible at clinics only, which puts patients of county hospitals in an unequal position and has a negative impact on the quality of their life, and on waiting lists at clinics, whose resources are burdened additionally. The president of the Croatian Oncological Society and the Head of the Oncology and Radiotherapy Department of the Split CHC, said that due to the lack of equipment only half of Croatian patients receive radiation compared more developed countries, although they need it.

According to the EC Report on Health and Health Protection, the RC ranked 8th by the mortality rate which can be avoided by medical interventions. The mortality rate from diseases that can be prevented is also high, which points to shortcomings in the quality of health care. In spite of that, possibilities of receiving medical treatment in other EU countries are limited and made more difficult due to administrative procedures pursuant to which costs, up to the prescribed amount, are refunded after the treatment completion only.

The problem relating to pharmaceuticals made of cannabis started attracting more attention last year. As cannabis cultivation for personal medical purposes is not allowed in the RC, patients are referred to preparations by pharmaceutical companies. However, their availability in the Croatian market has not been constant. Even when they are available, their monthly price amounts up to HRK 3.000,00 which is too high for an average citizen. An additional problem is that preparations are available in certain pharmacies in Zagreb and Split only, and this, too, makes the treatment of those not living in these towns even more difficult. Although the CHIF does not subsidise their price, unlike Switzerland, the Netherlands, Spain, Israel and Canada, patients are not allowed to cultivate marihuana themselves for medical purposes. Cultivation is subject to criminal prosecution.

According to CHIF data, there are other diseases, such Alzheimer's disease, for the treatment of which medications are used from the supplemental list of medications so that patients, although insured, have to bear their costs. We have pointed out in previous years the discriminatory effect of such medication distribution.

It is encouraging that in 2018, after a twenty-year battle, an obstacle to the treatment of patients suffering from multiple sclerosis (MS) who are over 55, was removed, so that their treatment may start now immediately after the disease has been diagnosed. By applying these guidelines, the timely treatment will be available to as much as 75% patients, unlike 25% so far.

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According to the Unions, employers often condition the payment of remuneration for good work performance and of other forms of remuneration, which the recent tax reform enables, by not taking sick leave. This brings employees with delicate health in an unequal position. Serious health problems resulting in long seek leaves bring workers in an unequal position in terms of health too.

Changes and reforms of the system in the recent years created some new problems. An internship after the completion of the studies, for example, is no longer required for physicians. Students who will complete their studies in medicine this year do not know still, as we are writing this report, whether the traineeship will be required or not, as it was (although many EU countries still have it) abolished in the RC within the harmonisation of the legislation with the acquis communautaire. Although students say that, in the course of their studies they do not adopt the knowledge and skills required to independently work as professionals, the Working Group that was supposed to decide what will happen with physicians who have recently graduated, offered no solution, although founded in 2016. Therefore, physicians, who right after their graduation acquired the medical licence, will be allowed to treat patients, although their lack of experience might directly influence the quality and availability of health care. Aware of possible effects of their mistakes, as much as 91% of medical students demand an internship, according to a survey by the Student Assembly of the Zagreb School of Medicine.

The Croatian Physician's Trade Union and the Croatian Association of the Hospital Physicians warn that overtime, often exceeding the legal limit, is also one of the problems, and the overall health care system is based on it. Nevertheless, unlike most EU countries, Croatia failed to recognise the specific conditions under which physicians work. Over the last years, we also received complaints made by non-health employees working in the health care system who believe that they have been discriminated based on their educational background. Although working on positions which are equal to those of health professionals, they receive lower salaries, which is contrary to the principle

of equal pays for the work of the same value, which is discussed in detail in the chapter on discrimination on the grounds of education.

Recommendations:

123. To the Ministry of Health and the Croatian Health Insurance Fund, to ensure the availability of cannabis preparations to all patients who need them for their treatment;
124; To the Ministry of Health and the Croatian Health Insurance Fund, to optimise the period of the unfitness for work by an efficient functioning of the health care system, instead of administrative cancellations;
125. To the Ministry of Health, to urgently regulate the internship of doctors of medicine, who will graduate from the school of medicine from 2019 onward;
126. To the Ministry of Health, to regulate the overtime of physicians while considering the specific requirements of the medical service;
127. To the Ministry of Health, to regulate the system of salaries of non-health employees working in the health care system by ensuring them an equal pay for the work of the same value.

3.21. CONSCIENTIOUS OBJECTION

Conscientious objection derives from the right to the freedom of thought, conscience and religious belief guaranteed by the Constitution and international documents. In relation to the provision of heath care services, a number of laws from the area of health allow it. However, as the manner of ensuring the patient's right to a health care service when health professionals invoke the conscientious objection has not been legally regulated in a clear way, this right is often misused at the expense of patients, especially female patients.

We wrote in our earlier reports about the problem of denying health care to members of a religious community of Jehovah's Witnesses, in cases such as this one, when due to complications during an operation they refused to consent to the blood transfusion, so that all physicians of certain clinic invoked the right to conscientious objection. We gave a recommendation to the MH to improve the legal framework about conscientious objection invoked by health professionals in order to ensure patients adequate health care in accordance with their religious belief, but also within the highest professional standards. However, the MH is of the opinion that patients are not denied their right to health care because a significant number of health care institutions, which are equally distributed all over Croatia, ensures the application of diagnostic and therapy treatments by taking into account the patient's religious belief. For example, the Zagreb CHC and the Rijeka CHC, the Sveti Duh CH, Dr. Fran-Mihaljević Clinic for Infectious Diseases and general hospitals in Zabok, Vinkovci, Varaždin, Našice and Bjelovar have possibilities of treating patients who out of their religious beliefs refuse to consent to the blood transfusion, while hospitals in Split, Osijek, Čakovec, Sisak, Slavonski Brod, Pula, Požega, Zadar, Virovitica and Šibenik may perform certain surgical procedures only, or apply certain procedures only when providing health care to such patients.

However, conscientious objection mostly attracts the attention of the general public in cases of refusal to perform a legal abortion, which is not always available, because in some health care institutions all gynaecologists refuse to perform it. However, such institutional conscientious objection is inacceptable, because the freedom of consciousness of one person should not limit or exclude the rights of others, in this case of patients. According to data of the MH, in hospital wards offering health care services in gynaecology and obstetrics, some 188 specialists and 120 nurses/medical technician and midwifes invoked conscientious objection. According to preliminary results of a study that the Ombudswoman for Gender Equality conducted in 2018, more than a half of health care professionals qualified to perform abortions do not provide this health care service because of conscientious objection.

The Health Care Measures Act for the exercise of the right to a free decision on child-bearing regulates the termination of pregnancy. Based on submitted proposals for a review of its constitutionality, in February 2017, the Constitutional Court took a decision requesting from the legislator to amend the Act within two years, but this has not been done yet. On the other hand, according to the recently presented bill by an independent group of experts, its purpose should be the protection of the reproductive health, autonomy, privacy and dignity of women requesting a termination of pregnancy, a decrease in the number of unplanned and unwanted pregnancies by applying contraception accompanied by informative campaigns and education in educational and health care institutions, and an increased availability, accessibility and quality of services in the area of reproductive health, as most of the EU members, except Malta and Poland, legalised the abortion either at the request of the woman or because of wide social indications. According to the Bill, an obligation to ensure the adequate number of doctors performing pregnancy terminations, including their distribution, as well as a ban on the institutional conscientious objection would be prescribed.

The issue of conscientious objection became actual by the end of 2018, in relation to pharmacists as well, as one of them refused to sell contraception to the customer, and the Commission for Medical Ethics and Deontology of the Croatian Medical Chamber took a decision that the Code of Ethics was not violated because patient's health and life were not in danger. The Ombudswoman for Gender Equality emphasised on that occasion that the health professional or the pharmacist exercise the right to conscientious objection individually, so that, if a pharmacy shop is not able to sell certain medication due to conscientious objection invoked by its employees, this puts the health of customers at risk. As every women have the right to freely decide about her sexual and reproductive rights and health, she also has the right to use contraception prescribed by her doctor, and since this was denied in this case, the Ombudswoman found that the Code of Ethics was violated.

Therefore, whenever health employees invoke conscientious objection, the institutions where they work should ensure conditions in accordance with the Act of the Protection of Patients' Rights, the Code of Medical Ethics and Deontology and the Health Care Act. A number of medical staff who might invoke conscientious objection should be regulated, in order to avoid the possibility where all health professionals of an institution performing certain medical procedure would invoke conscientious objection and prevent it being performed in this way. Health professionals are under obligation to timely inform the patient of their conscientious objection and refer him to another health professional. This obligation as well as the obligation to inform the superior or the employer

thereof should be described in detail. This relates especially to deadlines, which are to be met with regard to medical indications because the protection of patients' rights to a timely quality health service must come first.

Recommendation:

128. To the Ministry of Health, to prepare required legal changes that would:
- prevent institutional conscientious objection;
- prescribe the manner of informing the patient or the employer about the decision to invoke conscientious objection;
- prescribe the manner of referring the patient to another health professional of the same specialty.

3.22. EDUCATION

"I have been awarded a student scholarship by the municipality, but after several months they stopped paying it. When I inquired about the reason, I was told my father had an outstanding debt to them and for that reason, they could not continue to pay my scholarship... I do not know what my father has to do with it, because I am a person of age and I owe nothing to

"Dear Madam,
I work at a school. I have recently noticed a rise of intolerance among students against everyone who is different. I am also personally experiencing improper comments on a national basis. I find it pathetic and primitive and do not want to put up with it. Is there any mechanism at hand?"

Quality education as the foundation to improving people's lives is one of the goals of the UN Agenda for Sustainable Development 2030. However, according to the EC Report "Education and Training Monitor 2018", 3.1% of young people aged 18-24 in the RC have dropped out of school, which is an increase compared to 2.8% in 2014. Also, the study "Experience of Migration and Anticipated Departures of Young People from Croatia" conducted by the Friedrich Ebert Foundation in 2018, shows that young people habitually emigrate from RC in search of better education programs and employment opportunities.

All this points to the need of the education system reform, which began with the adoption of the Strategy for Education, Science and Technology back in 2014. Although a quality strategic document, the implementation of the goals of the Strategy has been considerably hampered and the planned restructuring was only partially implemented in 2018. Despite the fact that the Comprehensive Curricular Reform was drafted as far back as in 2016, the MSE did not adopt its umbrella document – the National Curriculum Framework (NCF), which is the basis for the adoption of other CCR documents, i.e. the national curriculum, as well as the curricula for individual subject areas and the

interdisciplinary curriculum. Thus, in 2018, individual subject areas and the interdisciplinary curricula were adopted without an umbrella document. In this way, the order of the CCR process has been reversed, which is contrary to the goals of the Strategy. An incomplete implementation of the CCR is also being reflected through the implementation of the project "School for Life", which started in 2018, but without sufficient preparatory training for the teachers, which led to a series of criticism from them. At the same time, the process of adopting the Action Plan defining the goals and measures of the Strategy to be implemented from the first quarter of 2018 to the first quarter of 2020 is hampered by mutual long-term harmonization of state bodies, and by the end of 2018, it was not adopted.

At the end of January 2019, the MSE adopted a curriculum for the interdisciplinary topic of Civic Education and Training in Primary and Secondary Schools (CET). Even if our recommendation from the 2017 Report that this theme ought to be counted as an independent subject was not accepted, this approach is still better than if the students were in no way in the course of their education educated on the principles of human rights protection and anti-discrimination. In the further course of the CET curriculum implementation, it is necessary to conduct systematic teacher training on the ways of its inclusion in the teaching process as a cross-cutting theme, since it is not elaborated in detail and there are no adequate guidelines for the preparation of quality teaching content, as the GOOD Initiative has cautioned publicly.

A separate part of the Strategy deals with improving adult education, and the 2019 EC report for RC stresses the need for a more precise regulation and more intensive implementation of adult education programs, which would facilitate upgrading of their skills and increase their employability. However, the MSE did not draw up a Draft Adult Education Act, as recommended in the 2017 Report and envisaged in the 2018 Legislative Plan, but instead, it was postponed to the 3rd quarter of 2019. Taking into account the Eurostat Survey for 2017, according to which the RC lags behind by the percentage of adult education (3% in 2016 and 2.3% in 2017), it is important to start drafting this Act as soon as possible.

Teachers are expected to create a non-violent environment in educational institutions, but at the same time, they do not have the appropriate backing in facing the complex problem of violence, and suppression of violence, which requires continual work through viable and primarily preventive programs.

The non-violent conflict resolution skills are part of the key competencies that students should adopt during their education and in the CoE document entitled "Competencies for Democratic Culture", the obligation of the states to provide a framework for their acquisition through the education system is strongly highlighted. Teachers are expected to create non-violent environments in educational institutions, but at the same time, they do not have the appropriate backing in facing the complex problem of violence, and suppression of violence, which requires continuous work through viable and primarily preventive programs. This problem has come to the focus of interest again at the end of 2018, following the physical clash of a teacher with students, which also prompted other students and teachers to give their testimonies and experiences of violence in schools. An analysis that was carried out in 2017

under the EduCATe project showed that teachers in the RC lack training that would prepare them to provide adequate responses to violence and to empower them in resolving conflict situations through non-violent methods (so-called non-violent conflict transformation). Also, the ETTA organized teacher training programs on non-violent conflict transformation only sporadically, while, at the same time, this area is not adequately standardized. For example, the PSEA includes concepts such as diversity, tolerance, and democracy, but it does not mention the non-violent conflict transformation explicitly, while the Ordinance on the Conduct of Educational Workers in School Institutions, when taking measures to protect the rights of students and to report any violations of these rights to the competent bodies, contains just a single provision, saying that at least once a year the schools have to organize professional teacher training in the prevention of violence and protection of students' rights. At the same time, there is no uniform and systematic education on non-violent conflict transformation at the vocational educational faculties, and if it exists, it is only an elective course. Bearing in mind that one of the objectives of the Strategy is to improve the system of permanent professional development and upgrading of educational staff, it is important to pursue their continuous learning on methods of non-violent conflict resolution and to integrate these methods into a program structure as a compulsory subject at all educational faculties.

From the complaints received in 2018, we have also noted the problem of laying down conditions for the payments of undergraduate grants and student scholarships. Namely, in the acts defining the terms of scholarships, some LRGUs consider it as negative if there are any outstanding debts at the address of the student's or undergraduate student's residence, which is contrary to the principles of the law of obligations, since the COA stipulates that the debtor is personally liable for servicing their debt. Regardless of the legal basis, a creditor can realize the outstanding claim from the debtor by instituting enforcement proceedings, and 'sanctioning' the undergraduates and students for debts that they are not personally liable for is not only demotivating but also legally unfounded. We have therefore issued a recommendation to the LRGUs, urging them to align their implementing acts with the legal framework, but we do not have any information on how it is being applied.
Moreover, foreign students with a permanent residence in the RC have complained that they have been subjected to unlawful treatment of higher education institutions in exercising their student rights, although the Council Directive 2003/109/EC of 2003 and the Foreigners Act stipulate that persons with permanent residence enjoy equal treatment as citizens of the RC in regards to education. In contradiction to that, higher education institutions have charged them with the full amount of study costs, offering as an argument the provisions from the Ordinance on Studying and the Implementing Acts of the University. That was the reason for us to issue a recommendation to the MSE in 2017, urging them to inform the higher education institutions of the legal obligations towards these students, which the MSE also did at the beginning of 2018. However, it turns out from the complaints we received later on that some higher education institutions still did not align their implementing acts to that effect: we have, therefore, warned them of the illegality of such conduct, and they have subsequently paid back the amounts received for the study costs. In order to harmonize the practice of all higher educational institutions and in order to avoid further illegal practices, it is necessary to revise their implementing acts and align them with the Foreigners Act.

Recommendations:

129. To the Ministry of Science and Education, to align the implementation of the curricular reform with the Strategy for Education, Science and Technology ;
130. To the Ministry of Science and Education, to adopt the Action Plan for the implementation of the Strategy for Education, Science and Technology ;
131. To the Education and Teacher Training Agency, to continuously train teachers on the methods of prevention and non-violent conflict resolution;
132. To local and regional government units, to bring their criteria for awarding scholarships in line with legal provisions from the realm of civil obligations;
133. To the universities, to harmonize their implementing acts on the payment of study costs with the Foreigners Act.

3.23. DISCRIMINATION IN THE AREA AND ON THE GROUNDS OF EDUCATION

From the perspective of discrimination, education represents both a discrimination ground and the area of prohibition of discrimination, so that limiting, differentiating, excluding or jeopardizing equal opportunities in education, if motivated by a discriminatory bias, amounts to discrimination in the field of education, while an unequal treatment of a person by reason of the type or the level of their education may constitute, if other preconditions are fulfilled, discrimination on the grounds of education.

According to the analysis of the state of affairs and requirements in high school education made by the ASHE, the knowledge on the transition from high school to higher education is rather poor, while the knowledge about the difference between professional and university studies and between regular and part-time studies is insufficient. In spite of this, 84.1% of graduates want to pursue their studies, while 61.1% of them think that resourcefulness, personal connections, and parents are more important for the enrolment into university than learning. Additionally, family and close persons are most commonly the source of information on educational opportunities, so it is not surprising that students from well-educated families make more competent decisions about continuing their education. By putting equal demands on everyone, the school system contributes to conserving the already existing roles in the society, despite its accessibility to a wider circle of users.
According to EUROSTUDENT figures, the number of students coming from families with the lower social and educational backgrounds is on the rise in RC, but the absence of support from their families, as well as the absence of social and financial support, aggravates their studies and directly affects their success rate. Children from such families are more likely to enrol into vocational part-time studies, and their age goes beyond the national average, due to the delayed start of the studies, but also due to the dynamics of studying, broken down by employment. In consequence, the RC is the EU country with the highest percentage of interruption of studies in the duration of at least two

consecutive semesters. If they were employed during the study, the acquired qualification has a minor impact on their position in the labour market, and most of them do not change their jobs after graduation.

Some of the study programs in the RC have been organized outside the Bologna structure, such as integrated studies, comprising up to 20% of students, or postgraduate specialist studies. Apart from their negative impact on the mobility and internationalization of students, such studies, all of which came about after the accession of the RC into the Bologna process, also generate inequality in a common European educational area. In order to rectify this, further harmonization of study programs should take into account the establishment of three levels of qualifications (undergraduate, graduate and postgraduate), which should be mutually comparable, as the basis of mutual trust between the systems in individual countries in terms of recognition of foreign qualifications and mobility.

On the other hand, although in other EU countries the professional and university studies represent the same level of education, in the RC, despite the amendments of the Croatian Qualifications Framework (CQF) Act, the contradictions go on, as regards their positioning in the context of 11 levels of overall qualifications, which aggravates both the employment and the continuation of education for students of professional studies. Thus, according to a study analysing the possibilities of monitoring the transition to the labour market, polytechnics and higher school graduates are less likely to be employed and have a longer period of unemployment, and they usually get employed mainly on jobs where a lower level of education is required than the one they attained.
For example, in the course of 2015, a complainant with 300 ECTS credits and a diploma of a specialist degree program in the field of project management has been denied the right to enrol into the related postgraduate specialist study "EU Adjustment: project management and EU funds and EU programs". At the same time, bachelors in the field of social sciences or humanities who have only 180 ECTS credits were admitted, which suggests the disadvantageous position of graduates of professional studies because of the type of education.

Although public university studies are perceived as being of higher quality, more demanding and more prominent in the available surveys among students, according to the National Employment Research Study on Employability of the students who graduated in the academic year 2015/2016, 53.7% of private university students got employed during the studies, as compared to 30.6% of public university students. Since as many as 24.3% of them were employed with the help of their families, friends, and acquaintances, this can also be viewed in the light of the social position of private college students who largely come from well-established, socially-networked families and who sometimes only study for the formal acquisition of a college degree, in order to take part in the family businesses. This is also confirmed by the average beginner's salary amounting to less than HRK 3,000.00 – 46.2% of public students and only 29.4% of students of private higher education institutions have that salary. Therefore, it is not surprising that as many as 43.9% of the surveyed high school students anticipate a very negative future for the RC in the next 20 years, and as many

as 47.5% see their future outside the RC, the majority among them also being the most successful students. According to a survey by the portal "srednja.hr" (highschool.hr), 80.9% of the respondents stated that their decision on a possible emigration from the RC would not even be affected by the obligation to subsequently reimburse the costs of the completed study.

The competitiveness of the education system is nowadays inextricably linked with the preparation of young people for the labour market, and it raises concern that 74.3% of students maintain that finding a good job without a college degree is difficult, while 48.7% maintain that the education is not appreciated in the RC.

As many as 47.5% of secondary students see their future outside the RC, the majority among them also being the most successful ones. According to the survey by the portal "srednja.hr", 80.9% of the respondents stated that their decision on a possible emigration from the RC would not even be affected by the obligation to subsequently reimburse the costs of the completed studies.

As the driving force of progress, education should be directed towards new scientific achievements, research, and innovation as key preconditions for economic growth. Taking into account the competitiveness of students in the labour market, as well as the progress of the economy, vocational education could open up to contemporary technologies, and not just to service jobs, such as the case with a pilot phase of dual education which is being conducted for the professions of salesman, cosmetologists, chimney sweeper and glazier. Among other things, such changes could contribute not only to the progress of the individual but could also help move the Croatian economy from the 136th place out of a total of 140 on the global economic competitiveness index of the World Economic Forum.

In the wider context of discrimination on the grounds and in the field of education, one could also observe the issues of hiring for jobs in the system of science and higher education and supervision associated with it. As a rule, higher education institutions do not have general acts which would precisely define special conditions for all systematized jobs – they are rather being defined from one competition to another and can thus be attuned to a specific candidate. Given that the failure to adopt an internal general act, stipulating special conditions for each systematized job at the higher education institution falls into the domain of legality of their work, it is of particular concern that the MSE has been denying its competence for several years now, treating these as irregularities pertaining to recruitment procedures and referring it to the competence of the Labour Inspectorate, who have explicitly proclaimed themselves not competent for the matter. This practice derives in part also from the ASAHE, according to which the selection of candidates for teaching and research positions in the higher education system is to be conducted through a public tender. As it is often about advancement to a higher position of persons who are already employed, job vacancies are being announced for a specific candidate who has, having worked in the system, already fulfilled the prescribed conditions. This raises the issue of meaningfulness of public job vacancies, which should make it possible for all, under equal conditions, to work in public services, but this also hinders hiring and entry of new persons into the system, even if they possess better qualities.

After several years of cautioning about the obligation to adopt a new Ordinance on the type of education of teachers, trainers, and associates in elementary and high schools (for which the deadline expired as far back as in 2009), at the end of 2018, its draft proposal was publicized in e-savjetovanje (e-consultation). However, the published text is inattentive of both the outcomes of learning and competences as the fundamental determinants of the Bologna higher education system, as well as the CQF, and specifies precisely the study programs and courses, types of studies and academic or professional titles required for the work in the elementary and high schools, thus excluding from the system all those who have a different academic title because they, for example, studied outside the RC. Furthermore, such a regulation would have a direct impact on the employability of students attending some new study programs in the future, who could otherwise have the competence to work in education upon their graduation.

As a rule, higher education institutions do not have general acts which would precisely define special conditions for all systematized jobs – they are rather being defined from one competition to another and can thus be attuned to a specific candidate. It is of particular concern that the MSE has been refuting its competence for several years now, treating these as irregularities pertaining to recruitment procedures and referring it to the competence of the Labour Inspectorate, who have explicitly proclaimed themselves not competent for the matter.

Although the MSE, as a follow-up to our warning, sent an instruction to all higher education institutions in the RC as far back as in 2016, cautioning them that permanent residents have the same rights in the education system as Croatian citizens do, in the course of 2018, we still received several complaints about student rights having been denied to foreigners with permanent residence, as we have written in the previous chapter.

According to the Decision on Financing Programs of Public Higher Education Institutions, state allowances for an individual student in the STEM area are almost 30% higher than for students of social studies, humanities and interdisciplinary areas. Promoting the studies that are more competitive in the labour market has an effect on the course of the development the university. However, scholarships for students in the STEM area have also included some management studies, such as the maritime human resources management, which, with its content, program or name, does not indicate STEM. Without clearly defined criteria for determining the STEM area or program, higher education institutions and their students are put into an unequal position. However, as stated in the MSE response, the aim of awarding the aforementioned scholarships is to add to the social dimension and accessibility of higher education, to improve and increase the success rate of the study, as well as to improve the qualification and availability of the workforce in the sectors of propulsion. Appreciating the above, and notwithstanding the property census and the quality of the study program, the question still arises whether this is the best approach to achieving the set goals.

Another example of discrimination due to the type of education is represented in the case of non-medical staff who are employed in the healthcare system and have been assigned to the jobs with the terms of reference, which, as stated in the complaints, fully corresponds to those of healthcare workers, and yet thier positions have lower coefficients of complexity because of their non-health vocation. Namely, the Regulation on the titles of jobs and coefficients of the complexity of public service jobs, applies different coefficients of the complexity for the work of employees of public health institutes with the same level, but different types of education, even though they work at workplaces with the same terms of reference, which is contrary to the International Labour Organization Convention on Equal Pay, which lays an obligation of the full application of the principle of equal pay for equal work for all workers. With this in mind, and since this principle is also an effective tool for the fight against gender-based discrimination, as well as against discrimination based on other grounds, we have sent a recommendation to the Ministry to ensure equal pay for equal work for all public service employees.

Alleged discrimination on the basis of education has also been established in the implementation of active employment policy measures, such as the "apprenticeship" and "30+" measures. Even if it has been stressed in the Guidelines for the Development and Implementation of Active Employment Policy, as well as in the Active Employment Policy Package of 2018, that the above measures are meant for all unemployed persons who meet the specified criteria, the CES approves of their application solely in the professions of social welfare, education and health. The fact that, in implementing some other active employment policy measures, such as the measure of professional training without commencing employment, applications have been rejected because of these qualifications – under the pretext that these were professions for which there is an existing demand in the labour market – only shows that arbitrariness in the assessment of the applications leads to an unequal conduct, which may further lead to discrimination based on education.

Recommendations:

134. To the Ministry of Science and Education, to ensure full respect for the Bologna structure of qualifications at three levels;
135. To the Ministry of Science and Education, to further elaborate on the criteria for approval of scholarships for STEM students in order to ensure the achievement of their goals;
136. To the Ministry of Science and Education, to ensure the implementation of supervision of the legality of work of higher education institutions, especially in terms of conditions for hiring to positions in the system of science and higher education.

3.24. DISCRIMINATION BASED ON RELIGION AND THE FREEDOM OF RELIGIOUS DENOMINATION

"I am a Jehovah's Witness by denomination and I believe I am subjected to discrimination based on religious grounds, especially for the following reason. Three times a year, we have a large gathering (Congress) with thousands of people coming and each member of my religious community is obliged to be present at these gatherings at all costs. And I have a problem getting a day-off and a vacation at times when I need it, while Catholics can get up to 5 days of paid leave for various pilgrimages and the like. It is obvious that we are dealing with religious discrimination."

Faith represents the essence of a fundamental human right – freedoms of conscience and religion, which is recognized by numerous international human rights documents and constitutes one of the freedoms prescribed by the Constitution. The possibility of public expression and practice of faith or another belief, as well as the possibility of altering the faith, are the rights that are facilitated by the freedom of conscience and religious denomination, and are closely related to the prohibition of discrimination based on religion, which protects members of all religious denominations and persons who are not part of any religion from unfavourable treatment. Discrimination based on religion is therefore manifested as unfavourable treatment because of individual stereotyped attitudes or prejudice, and through actions that point to differences in the position and opportunities of equal participation in social life; consequently, the situations in which the subjects of discrimination are individuals or religious communities who belong to a minority, or persons who are not believers, occur more often in society.

In 2018, we received the most complaints of discrimination based on religion in the field of education, pertaining to the organizing religious activities in schools and kindergartens, as well as complaints about the content of catechism textbooks and the Croatian language books for elementary school, and these topics were also present in the media. In 2018, the Constitutional Court issued a decision on the formation of catechism classes in schools and the conduct of religious education in preschool institutions, establishing that the state allowed a free choice of preschool religious education, i.e. teaching of catechism in elementary and secondary schools, as well as the holding of these classes in accordance with the Act on the Legal Position of Religious Communities (ALPRC). Given that they enjoy protection and assistance of the state in their activities, the separation of state and religious communities is not absolute, and the Court concluded that the freely chosen religious education or holding of religious classes as prescribed by the ALPRC is not in contravention of the Constitution and the Croatian Parliament, as a legislative body, is entitled to decide on it.

Complaints about maintaining religious activities in schools and kindergartens were passed on to the Ombudswoman for Children (OC), who considered that blessing students and common public prayers on the premises of an educational institution was inappropriate, and that obliging all the pupils in schools or kindergartens to participate in religious activities can lead to discrimination against the children who are not believers or members of the Catholic denomination; she also warned of the need of observing the rules and regulations on the conditions and manner of performing catechism classes and religious education. With regard to complaints about the content of Croatian language and catechism textbooks in elementary schools, which potentially incite discrimination, the MSE responded to us that it is being considered in coordination with the publishers and in the future editions of the textbooks, possible changes will be agreed and publishers will be asked to include additional information in the textbooks in order to clarify the context of their content. At the end of 2018, amendments to the Primary and Secondary Education Act were adopted, stipulating that it is the duty of the public school system to be neutral and balanced, as well as the new Act on Textbooks and Other Educational Materials for Primary and Secondary Schools was adopted, on the basis of which the textbooks should be founded on contemporary scientific knowledge and scientific theories that have been globally accepted within the scientific community.

Members of minority religious communities in the RC have again this year encountered the problem of having their days-off during the week or consuming the right not to work at the time of religious holidays and feasts, as we wrote in the Report for 2017. As the provisions of the Holidays, Memorial Days and Non-Working Days Act are not precise enough, we have recommended to the MLPS to draft a proposal with necessary amendments observing the need of marking anniversaries of particular significance to individual religious traditions and clearly prescribing the rights of members of religious communities. Although they reported back to us by saying that this would be taken into account in the next round of amendments to the Act, the modifications have not been scheduled for 2019.

The Catholic Faculty of Theology (CFT) continued with the practice of requiring that a certificate of baptism be included in the tender documentation in the process of recruitment of administrative and technical staff, irrespective of the workplace, which directly constitutes discrimination on the basis of religion. Namely, although we have reported on this issue for several years now, and we have been issuing recommendations and warnings to the CFT asking them to revise this practice, in 2018 they again announced a job tender for the post of a janitor and the original of the certificate of baptism had to be enclosed as part of the tender documentation. Appreciating the status of the Catholic Church and its right to establish educational institutions, the exception to the religious ethos of religious communities referred to in Article 9 of the ADA is not applicable to the employment of administrative and technical staff, but is limited to employment in religious organizations for jobs in which religion or belief constitute a true, legitimate and justified requirement for the performance at work. In support of this are the verdicts of the EU Court of Justice adopted in 2018, Vera Egenberger v. Evangelisches Werk für Diakonie und Entwicklung eV, as well as IR versus JQ, concerning the

conditions for performing a job in a church as an employer, or another organization whose system of values is founded on the religion or belief. The EU Court of Justice found that on the one hand, it is necessary to ensure a proper balance between the rights of religious organizations on autonomy and self-determination, forum externum, and on the other hand the rights of employees and potential employees on the forum internum – the freedom of belief and the right not to be discriminated against based on that belief. Therefore, an organization whose value system is based on faith or belief cannot decide in a binding way that a certain faith of a candidate is a realistic, legitimate and justified requirement for performing a particular job. Such a requirement must be in accordance with the principle of proportionality, it must be essential and objective, and must not include reasons that are not linked to this system of values or the right of that church or organization to self-determination, and such a decision must be liable to judicial supervision.

During 2018, the issue of financing religious communities has become a topic again, given the significant amount that the state allocates to them. According to Eurostat data, the RC is among member countries that allocate the highest percentage of its GDP for religion, 0.6% in 2016 – more is being allocated only by Hungary. According to the data provided by the Commission for Relations with Religious Communities, HRK 299.5 million was paid to the Catholic Church from the budget in 2017, and HRK 285.7 million in 2016, while other religious communities with whom they have a signed agreement on issues of common interest were paid HRK 20.6 million, similar to previous years. Even though a bench in the Croatian Parliament launched a proposal on opening negotiations on the modifications of the Agreement between the Holy See and the RC – which was followed by a rally called "Raskid! 6" (Abrogation! 6), organized in Zagreb by the Movement for Secular Croatia, and the CSOs Protagora, LiberOs, Atheists and Agnostics of Croatia, who believe that the Catholic Church holds a privileged position in relation to other religious communities and infringes secularism, as granted by the Constitution – at the beginning of 2019 the Croatian Parliament rejected the proposal for the modifications.

In the course of 2018, most religious communities did not report that there were cases of discrimination of believers; however, the CBC has pointed to the problem of ridiculing the Catholic faith and humiliating believers. They say that - being aware of the weaknesses that are present in the Church, which need to be admonished by means of truth and righteousness – what they get instead of a clear and well-argued discussion about irregularities in the Church, is the outbreak of prejudice and stereotypes. They believe that the media have also contributed to this, offering as an illustration the lecture by a school chaplain of the Zagreb Archdiocese in a high school, which was cancelled under the pressure of the MSE and the media, with the media characterizing him as a controversial person, because he has criticized contraception and encouraged respect for premarital morality – which is in line with his ministry.

The Jewish municipality of Zagreb pointed to the problem of the return of Jewish property seized during the Second World War, pointing out that the restitution is still at rest and therefore they deem

necessary the amendments to the Act on Compensation for Property Seized during the Yugoslav Communist Rule.

During 2018, we undertook an action upon suspected discrimination against a member of the Jewish religious community, a radiologist at a University Hospital Centre (UHC), to whom an unknown person adhered David's star made out of self-adhesive patches on his protective clothing. A criminal report was filed against an unknown perpetrator, and following the preliminary inquiry the state attorney's office found that an offence was not subject to prosecution ex officio, and we do not have any information on whether the injured party subsequently continued with the prosecution, but he did not lodge a complaint about protection of dignity at work. However, similar incidents in the UHC did not happen anymore. The second case, which we have been following on for many years, deals with the criminal prosecution for anti-Semitic threats and insults. Namely, a member of the Jewish community has repeatedly in several years been attacked and insulted by a neighbour for his religious affiliation, and the proceedings were instituted only in 2016, following several incidents that were reported in 2012 and 2015, and according to the latest information, the case is still ongoing.

We also received a complaint on displaying religious symbols in the public space, i.e. a crucifix in the patient's room at the gynaecology clinic, where the complainant maintained that this was discrimination of persons who are not Catholic believers or are without religious beliefs. As displaying religious symbols is not legally regulated, and there is no case law either at the Constitutional Court or the ECtHR in relation to the Republic of Croatia, observing of religious ceremonies should be provided to the patients in the area dedicated for this purpose during their stay in a medical institution, whereas the displaying of religious or other symbols in the common premises of the hospital should be limited, while at the same time allowing them to be displayed within the private space of patients.

At a meeting between bishops of the SOC in the RC and CBC representatives, it was underlined that the Croatian public is largely preoccupied with the negativities of the others, ignoring their own, which separates people, creates distrust and distances one from the other. However, a desire was expressed to encourage believers to foster unity beyond any national and political intolerance.

Given the omnipresence of hate speech regarding national and religious minority communities – of which we have written more in the chapter on the public discourse – it is positive that leaders of religious communities generally emphasize the quality of mutual cooperation and the importance of building friendly relations. A positive example of inter-religious dialogue is the establishment of the Inter-Religious Council of Rijeka, which brought together the most widespread religious communities in the city, within the framework of the Rijeka: European Capital of Culture 2020 program, for further improvement of inter-religious dialogue. Another example of good practice was the forum on "Religious Prejudice as an Incitement for Hatred" by the Centre for Promoting Tolerance and Preserving the Memories of Holocaust, attended by representatives of the largest religious communities: Mufti Aziz Hasanović, Metropolitan Porfirije Perić, Rabbi Luciano Moše

Prelević, and Bishop Mate Uzinić. It was concluded that all prejudice, not just religious, is a potential source of hatred, but can be prevented by dialogue.

However, at the end of the year, the relations between the highest representatives of the Serbian Orthodox Church (SOC) and the Catholic Church became tense, after the head of the Serbian Orthodox Church reproached the Bishops of Croatia in several public appearances and addressed his criticism to certain actions they undertook. The CBC, therefore, sent a letter to Patriarch Irinej, reproving his appearances, arguing that such an approach – resulting from a disagreement over some historical events – arouses antagonism within the Croatian society, and distrust against the SOC and the ethnic Serb citizens in Croatia, stirring hatred, without solving a problem. They also sent a message that they would continue to plead for mutual meetings and dialogue. However, a meeting that was held at the beginning of 2019 – after the above letter was sent, but before its publication in the media – between the bishops of the SOC in the RC and the CBC representatives, showed that they have recognized the importance of keeping up the good relations; moreover, they pointed out that the Croatian public is largely preoccupied with the negativities of the others, ignoring their own, which separates people, creates distrust and distances one from the other. They stressed they wanted to encourage believers to foster unity beyond any national and political intolerance, and a joint statement of Catholic and Orthodox Bishops was signed at the meeting.

From all this, it is clear that in the protection of religious rights and freedoms and the suppression of discrimination based on religion or beliefs, further efforts need to be invested in the respect of the rights of individuals and communities, in cultivating good relations, getting to know and appreciate each other, through messages that promote unity.

Recommendations:

137. To the Ministry of Science and Education, to exercise their authority of supervision in the process of including textbooks into a catalogue of approved textbooks and in the process of removing textbooks from the catalogue, as to provide for the teaching material of non-discriminatory content, based on contemporary scientific and educational standards;
138. To the Ministry of Labour and Pension System, to draft the necessary amendments to the Act on Holidays, Memorial and Non-Working Days in the Republic of Croatia, in order to ensure that the rights of members of religious communities were clearly specified and in order to observe the needs of marking anniversaries of particular significance for certain religious traditions.

3.25. PUBLIC DISCOURSE

„I do not know who to turn to. For a third time now, a certain gentleman is offending me and my family on a national basis on his Facebook profile, coming up with the lies for which he has no proof. I have reported him with Facebook, who have offered me to block him. I think that a gentleman has no right to insult people via the internet and tell lies and that such posts should be removed.“

The polarization of the society and the use of populist rhetoric for squaring accounts with unlike-minded people continued in 2018, at almost all social levels, in the media and on the platforms as well. Unacceptable messages and hate speech could be found across the advertising space, in the television entertainment and information programs, in the print media, on the internet, in the education system, in sports, among representative bodies of authorities, as well as in the cultural domain.

Hate speech, the consequences of which can be far-reaching, both for an individual and for a group of people, is still inadequately recognized in the public, as well as how it differs from threats or libel. Many European and international organizations have pointed to an increasing amount of hate speech and its unwanted consequences, so that the European Commission against Racism and Intolerance (ECRI) in the Fourth Monitoring Cycle of 2012 recommended to the Croatian authorities to raise the awareness of media professionals and their organizations about the dangers of racism and intolerance. However, the 2018 Report in the Fifth Monitoring Round shows that there is no improvement at all. To the contrary, the ECRI concludes that some media houses play an increasingly prevalent role in spreading the hate speech, while some programs contain racist comments. The ECRI further points to the growing influence of historical revisionism in social media, which is of particular concern, not only because hate speech is often the first step leading to violence, but also because of the dangerous effects it has on the ones who have been targeted, as well as on social cohesion in general.

The FRA report for 2018 also points out that hate speech caused by racism and xenophobia continues to deeply affect the lives of millions of people in the EU, despite the initiatives of the EU High-Level Expert Group for combating racism, xenophobia and other forms of intolerance. The FRA, therefore, proposes that member states ensure that all cases of hate speech are effectively recorded, investigated, prosecuted and convicted, in accordance with national, European and international law at the EU level.

Although it is not possible to seek accountability of the MPs for the unacceptable speech presented in the Parliament, the point of concern is the absence of their subsequent apology, as well as of the official condemnation coming from their political parties and

It is of particular concern that some politicians condemn hate speech only arbitrarily and across-the-board, and every now and then they resort to it themselves. Thus, in 2018, several Members of Parliament took the lead in spreading unacceptable and discriminatory messages in the public. In the first case, an MP sent via Facebook a frightening message about the 'unfinished business by the allies in May 1945', while another MP used the parliamentary speaker's stand to call journalists rats and typhus patients, whose morality suffers from AIDS, and people he is at odds with are customarily given names, such as homo-Yugoslavicus, Fat Ass*s and the like. In an interview for a weekly magazine upon the ratification of the Istanbul Convention, another representative put forward a number of discriminatory messages and talked about 'lesbian-communists terminating the children', while in the parliamentary debate on the Foster Care Act he asked the question "...who would you give a child for adoption: to a normal couple, a husband and wife, which is normal for me, or to two guys from the gay pride, naked asses, flapping around and fencing in front of the children".

The unacceptable speech of the parliamentarians is usually covered by their immunity for the opinions they express in words; however, although no legal liability can be claimed for such malpractice, what raises concern is the absence of their subsequent apologies, as well as of condemnation coming from their political parties and the body they represent as members. Such a reaction would be consistent with the ECRI's General Recommendation no. 15 on combating hate speech, according to which the politicians, senior officials, and all political parties should condemn hate speech, and promote a 'counter-narrative' or a 'positive narrative', by inviting all their members and followers to refrain from all forms of unacceptable speech. EQUINET gives a similar suggestion in its recommendations on combating discrimination and hate speech in pre-election campaigns published in March 2019, which further suggests that alongside politicians, the media should also refrain from hate speech while following up on election campaigns, and should provide responsible reporting and comments.

In a society where more and more messages with unacceptable or hateful content can be heard, normalization of such a discourse poses itself as a challenge, as it also reaches the places of zero tolerance of violence – the schools. In the case of a catechist teacher who was recorded by the students during a lesson while expressing discriminatory attitudes and showing contempt and intolerance against members of the Serb ethnicity and Muslim religion, the Municipal State Attorney's Office responded in a timely manner, establishing that there was a reasonable suspicion that a criminal offence against public order had been committed by inciting to violence and hatred from Article 325 (1) of the CC and proposed a pre-trial detention due to the risk of influencing witnesses, and the proceedings are still ongoing.

The lack of self-criticism in the context of recognizing discriminatory messages is also evident in some of the media. They often correctly recognize discriminatory speech by public figures, politicians, and others, however, they do not show enough willingness to give up on their own unacceptable speech and condemn obvious examples of it in the articles by their employees. In 2018, an internet portal created the section "Uhljebistan" (Land of Sinecurists, political protégés), carrying articles pointing to irregularities in the work of the state administration, including articles in which some data are vastly generalized, without any reservations, and all public sector employees are referred to with a derogatory word 'uhljebi'. Hence, the following headlines were also published: "Croatian Railways Worker: Uhljebi have bred in large numbers – we can no longer breathe. It's never been worse". "Close all the bakeries, kill the fishermen, destroy the florists. Give all the money to uhljebi", "The parasites breed like rabbits: we spent $ 740 million more than last year" or "Uhljebi spread terror in the Adriatic: tax collectors impose stringent controls, also targeting holiday apartment renters" and the like.

Migrants are also often portrayed in an unacceptable manner, and some media continue to carry the content filled with hate speech and other forms of unacceptable speech about them. Some media have published articles that unnecessarily point to the national origin of perpetrators of unlawful acts, though omitting this information would have not affected the quality of the information. One such ill use aimed at spreading hate speech occurred at the end of 2018 in a TV broadcast which was carried by six regional stations, where the presenter noted that migrants were savages and rapists from the East; another report was broadcast about the alleged female victim of robbery, who stated that migrants should be beaten up until they drop, while another guest on the TV set referred to them as a sick group infected with heavy and transmissible infectious diseases, such as AIDS, hepatitis, and TBC. The AEM found that the broadcast violated the Electronic Media Act and temporarily suspended the concession. The aggravating circumstance for three local television stations was that they also ran a repeat, for which their concessions were suspended for 24 hours, while the concessions to the others were suspended for three hours. Following this decision, AEM members received life threats, which they reported to competent authorities.

During 2018, a lot of criticisms was addressed to the CRT, mainly because of them giving space to the ideas and to people belittling and/or denying the ISC (1940–1943 WW2 self-proclaimed fascist puppet state calling itself the Independent State of Croatia) crimes. The TV-text pages carried revisionist information on the character of the children's camp in Jastrebarsko, while negationist publications and ideas were advertised and promoted in the television programs. According to CRT data, in 2018, no workers were sanctioned because of promoting books or films, or because of hosting certain people, publishing inaccurate data, or expressing a personal attitude in the program. However, due to some omissions, CRT subsequently disavowed the views expressed, and published a post on the website and in the TV-text pages, apologizing for certain omissions made in regard to the content of their programs.

Although these are big faults in editorial policy, it is encouraging that through the activities of the CRT Academy, such as the Y-NEX two-year EU project, efforts are being invested into improving the education of employees, primarily editors and journalists, when it comes to understanding human rights and the topics of inclusion of marginalized groups in the society. However, further education should be a standard of the public service broadcaster, not an exception, since they, more than at any other media, are responsible for publishing proven and established facts and creating a program that is objective, professional and relevant, respecting all the rules of the profession. Cases such as advertising and promoting books that diminish the Holocaust crimes or the significance of the Jasenovac camp show that systematic and continuous education is required. For example, as long as they are hosting people whose theses represent a relativisation of crimes committed in World War II, the employees should be made aware of the far-reaching consequences of promoting such ideas. It is necessary for them as public service professionals, to relate objectively, knowledgeably and critically to such ideas and to learn and develop journalistic skills, enabling them to respond to what is being said on the very spot and in real time and to be an equal counterpart, not only the program presenter. In a situation where CRT has to choose between viewing ratings and informing, the latter should always be chosen in line with the purpose for which CRT operates.

Objective media enable the user to create his own opinion based on the facts that journalists have uncovered, free from personal conclusions made by authors, or derogatory epithets and unacceptable speech, or anything else that can affect the creation of an unbiased perception. The responsibility for transmitting messages in a manner that is not discriminatory, inciting or hateful is on all the members of the society, including the media, as well as politicians and other public figures, even if (this would mean) reaching out to a smaller number of people.

Media freedoms

According to the media freedom index of the non-governmental international organization Reporters without Borders, the status of the media in the RC in 2018 has improved compared to the previous year and from the 74th place of free media countries in 2017, worst ever, the RC has now moved to the 69th place. Although this is encouraging, we have to point out that this is the second worst result since 2013. One thing that has contributed to the improvement of the perception of the media is certainly a slight decline in physical attacks on journalists and threats against them, but in 2018 there was still one attack, five death threats, and one attempted burglary.

Media freedom is certainly additionally affected by the issue of a too broad, actually dual liability of journalists, editors and publishers – both civil and criminal – as well as non-harmonised judicial practice that deepens legal uncertainty in the work of journalists. In addition to civil liability for non-material damage, the CC introduced in 2013 a criminal offence of defamation, which stipulates a fine in amount of 360 per diem income for a qualified form, i.e. against a person who has, through press, radio, television, computer system or network, at a public gathering or otherwise in front of a large number of people, conveyed or made a statement that could harm the honour and reputation of another person. As civil responsibility is broader than criminal liability, and can exist without it, the

media and journalists are exposed to the possibility of being sued twice for the same article, if inflicting harm to somebody's honour and reputation.

Also, it remains to be seen how the numerous court proceedings against journalists and the media for violation of honour and reputation will reflect on the media freedom index. Referring to the number of lawsuits launched by the CRT, the European Federation of Journalists (EFJ) states that it represented an abuse of the legislature and the state of the media was worse than in Serbia, Bulgaria, Hungary or Turkey, as well as that the proceedings being launched against journalists, editors and publishers, and in particular against their professional associations, are unprecedented not only in the RC, but also in the whole EU. According to data currently available to the CJA, the CRT currently runs dozens of proceedings against media houses and journalists, and the total amount of their claims exceeds HRK two million. For example, against the chairman of the CJA branch at HTV, a procedure was initiated because she signed a statement criticizing the CRT's attitude towards its employees, including the president of the CJA.

In that context, it is important to make an assessment whether the criticism has exceeded the right to freedom of expression and, if so, what is the proportionate sanction for that offence. In doing so, the case law from the ECtHR is relevant, as we have pointed out in the 2017 Report, in the Wojtas-Kaleta case v. Poland (2009), in which the journalist of the Polish national television, as the chairwoman of the union of journalists, expressed doubts regarding editorial policy of the public television and issued an open letter. As a result, the employer reprimanded her with the explanation that by doing so she had dishonoured the company and tarnished its reputation. Wojtas-Kaleta sued the television, and the national court found that the decision on the reprimand was proportionate. Nevertheless, the ECtHR considered the importance of the employee's loyalty to the employer, in relation to the right of journalists to transmit the information truthfully in the public interest, for which reason it found that the reprimand was disproportionate and that Ms Wojtas-Kaleta's right to freedom of expression was thus violated.

In addition, in the Fuentes Bobo v. Spain (2000), a producer employed on public television was laid off after writing an article and appearing as a guest on radio shows, where he criticized the TV. The decision of the television to dismiss him after such actions were also confirmed by the Spanish court, stating that the right to freedom of expression does not include the right to insult someone, which Fuentes Bobo did when he called the management 'the leeches'. However, the ECtHR concluded that this dismissal is a disproportionate interference with the right to expression of own opinion, that is to say, that it was a violation of Article 10 of the ECHR.

Therefore, in accordance with ECtHR practice, the employer must also take into account the right of employees to express their opinion, particularly when assessing whether it is encroachment on honour and tarnishing of reputation, or when it decides on which sanctions to impose on employees. Also, national courts need to carry out a test of proportionality in order to decide whether a measure is proportionate to the goal to be achieved.

Lawsuits against a new kind of media were in special focus this year , actually, the anti-news portals, which are publicly known for being specialized to carry fiction and satirical accounts of current events. Satire, as a special form of expression, is specific, just because of exaggeration, overemphasizing, distortion of reality and provocation. Such an understanding of satire is in line with the Declaration on Freedom of Political Debate in Media, adopted by the EC in 2004, which explicitly states that humorous and satirical genres, as protected by Article 10 of the ECHR, permit a greater degree of exaggeration, even provocation, as long as the public is not being deceived in relation to the facts. Therefore, the courts bear additional responsibility in specific situations, where they have to pay utmost attention when deliberating on whether the interference in satire is necessary and whether the protection sought is proportional.

In addition to the fact that being exposed to court proceedings may have a deterrent character for journalists in their future work, the problem is also in the high amounts asked for in the litigation claims, which, along with the length of the proceedings, has an impact on their expenses. Then there is a fear that such circumstances will create a sense of need for self-censorship in journalists, in order to avoid long-lasting, financially burdensome and uncertain legal proceedings.

In the 2018 report, Reporters Without Borders also point to a violation of independence of public television, which they consider to be under political influence, while the EFJ notes the Report by the Media Organization of Southeast Europe (SEEMO), which states that there are indications of slight censorship in some media, and suggests that all political parties should refrain from interfering with the editorial policy of public service media. While in the case of extraordinary termination of the employment contract to the President of the CJA at the CRT, court proceedings are underway, it must be pointed out that the CRT has sued its staff member for encroaching on its honour and tarnishing its reputation after he has publicly expressed allegations of censorship. However, we have no information as to whether the bodies of prosecution have conducted inquiries in order to determine whether there was censorship indeed, and the CRT explained why they have initiated the lawsuit by saying that it was not true, and therefore they were forced to take legal action.

During 2018, there was no progress in the financing of the non-profit media. The tender for the project "Community Media – Support for Social Inclusion through Media", which we wrote about in the 2017 Report, has not been announced, even though the notice was given in 2016, but it has for long lingered in a high stage of preparation, with multimillion funds having been secured through the ESF. As the non-profit media remain excluded from the distribution of capital, such as income from the games of chance, they have almost no orderly sources of funding, apart from assets from the Fund for Promotion of Pluralism and Diversity of Electronic Media, for which the non-profit media and the CJA point out that they are neither systematic nor sufficient. They are therefore on the verge of existence and continue to rely on the good will of citizens who fund them through donations.

The lack of a media strategy that would (re)define media and journalistic standards, as well as insufficient education of journalists, and a low level of awareness among citizens of the differences between hate speech, discriminatory speech, and criticism, leads to an unfavourable social climate affecting all aspects of the society.

The foundation for a good functioning of public information services, profit and non-profit media alike, as well as for enhancement of journalistic freedoms, should be the media strategy, which was announced in the RC as far back as in 2012 and published in 2013 under the title "Work Material for Discussion on Media Policy of the RC 2015-2020". In the meantime, three governments and four ministers in charge have rotated, and we are not any closer to the comprehensive strategy that would determine the media path in the next few years, and the strategic goals and ideas discussed over half a decade ago are now outdated. Regardless of when its creation will start, in addition to media and legal professionals and CSOs, it will be necessary to also include IT professionals who would recognize technological challenges of the new generation of media and offer responses to them.

The lack of a media strategy that would (re)define media and journalistic standards, as well as insufficient education of journalists, and a low level of awareness among citizens of the differences between hate speech, discriminatory speech, and criticism, leads to an unfavourable social climate affecting all aspects of the society. This can be seen in the example of online posts – while the author of the article, as well as his editor and publisher, bear personal liability for its publication, it often happens that no one is held liable for the commentaries following the article on the portals or for the posts on social networks, and there is no legal framework to stipulate which comments should be removed, by whom and when, especially on social networks. This is a result of the obsolete legal framework of the Electronic Media Act, which is not aligned with the technological progress, which is why the responsibility of editors and publishers remained unregulated, and in the meantime, a need for standardizing new social trends arose, such as misinformation. Ten years after the adoption of the EMA, the Ministry of Culture announced that in 2019 it would adopt a new Act, in line with the Audio-Visual Media Services Directive.

In its 2018 Report on RC, the ECRI recommended the authorities to ensure the full independence of the Electronic Media Agency, and encouraged the Agency to act resolutely upon all the cases of hate speech. Namely, according to data for 2018, the AEM deliberated in 37 cases whether a violation of EMA occurred and established that it did occur, but in only one case.

Internet and social networks

Framework Decision on Combating Racism and Xenophobia defines hate speech as a criminal offence, even when it is committed on the Internet. Therefore, the EU member states and the IT industry operating on the Union's territory share responsibility for promoting and securing freedom of expression on the internet and on social networks, as well as the responsibility to suppress and eliminate hate speech. Since Facebook, Twitter, YouTube and Microsoft have signed the Code of

Conduct in combating illegal hate speech on the internet in 2016, thus setting a European standard in addressing this issue, with stakeholders committing themselves to more actively review the reported content and remove hate speech from their platforms, other popular social networks like Dailymotion, Snapchat, Instagram and Google + joined in.

The third monitoring cycle shows that the Code is an effective and fast tool in a fight for the internet without this illegal content. Věra Jourová, EU Justice, Consumer and Gender Equality Commissioner, stressed that the success rate in eliminating such a content differs from one IT company to another, so it is not yet excluded that the EU will adopt a rule that would regulate hate speech. In addition to the difference in success between IT companies in removing illegal content, a part of it still remains, sometimes due to differences in national legislation, but also because of insufficient education of social network administrators.

The Central State Office for the Development of the Digital Society has announced the adoption of a law on the prevention of inappropriate behaviour on social networks for the suppression and persecution of electronic/virtual violence, hate speech and fake news, which indicates the intention of the RC to join the growing EU trend of restraining unacceptable behaviour online and its equalizing with offline communication. But without the prior clear definition of what illegal hate speech is and who is competent to decide whether freedom of expression has been exceeded, there is a danger that the Croatian legislator would fall into a similar trap, into another normative extremity, which has happened in Germany. Namely, since the beginning of 2018, a law came into effect that imposes very high fines for the publishing or inopportune removal of hate speech from social networks, without the clear legal definition of this term: it has not been legally prescribed who on the internet platforms decides on the reported cases and whether they are skilled enough to take up that role and replace the courts. Therefore, there is justified criticism that such a normative – which makes the platforms temporarily or permanently remove any suspicious content in fear of high fines - can lead to censorship.

Encouraged by the announcement of the new Act, and trying to point to the need of suppressing hate speech on the one hand and to the necessity to ensure the right to freedom of expression on the other, we have organized the round table "Hate speech in Croatia – how to move forward?". The gathering was a chance for an interdisciplinary exchange of views, involving representatives of state bodies, judges, journalists, university professors, CSO representatives, attorneys, legal experts, and many others. Although there is no definition of hate speech in the domestic normative framework, and in a concrete case a judgment can be given only by the court, it remains to be seen what mechanisms the law will foresee in order to remove unlawful content from social networks while at the same time protecting all human rights.

Communicating with symbols

We write more on the topic of displaying certain inadmissible symbols, especially Nazi and Ustasha, but also those coming from the anti-fascist struggle, in the next chapter. However, in 2018, we

continued to receive complaints about the flags hanging from the facades of buildings which do not conform to the official flag of the Republic of Croatia according to the Act on the Coat of Arms, Flags, and Anthem of the RC, and on the Flag and Sash of the President of the RC. However, only a few proceedings were instituted before first instance courts for flying of flags, for example, those with the printed message "For Home(land) – Ready", where convictions were passed, but not always under this law. This also points to inconsistent and unequal actions by the police, as in one case they acted upon the Coat of Arms and Flags Act, while the other two were processed under the Act on Offences against Public Order and Peace. On top of it, in two cases the court failed to comply with Article 76 of the Misdemeanour Act and seize the flags. Even though the offender was convicted, what raises concern is that the police prepared the motion to indict in a way that the flag with the first white field and with the inscription "For Home (land) – Ready" was called a "historic flag", which the court sustained in a judgment.

When it comes to communicating through symbols, the Government's Council for Facing the Past has also taken a position in its Dialogue Document towards the gravestone inscriptions and messages, especially those used in the armed aggression against the RC and/or those glorifying the Greater Serbian sentiment, and established that it would not consider unacceptable if the issue of the inscriptions and messages on the gravestones undergoes normativization. However, this problem is broader than the Council concludes, because such a restrictive normativization would exclude, for example, the illegal World War II symbols, such as the swastika, the Ustasha "U", but also other explicitly racist, xenophobic and otherwise unacceptable messages. Therefore, the announcement by the MCPP that by amendments to the Cemeteries Act in 2019, those issues will be even more broadly regulated than recommended by the Council, comes as an encouragement. Back in 2017, we acted upon placing of stickers with the inscription "Serbian family tree", showing a tree with people hanging from it, maintaining that the symbolism and the message that these inscriptions convey were unacceptable. Even though the criminal complaint was filed against a young adult from Vukovar for justified suspicion of committing a criminal offence of public incitement to violence and hatred under Article 325 of the CC, at the time of writing of this report, the proceedings were still ongoing.

A positive example of a 'positive narrative' is the anti-crime and anti-hate speech campaign of the OHRRNM, which printed the stickers with the lyrics of Enes Kišević's poem "People are People Everywhere" written across the graphic of the crown of a tree. This is a "counter-speech" to the unacceptable symbols of hatred, i.e. an affirmative message, as opposed to unacceptable and unlawful public discourse, which certainly deserves a warm welcome.

Sports

In 2018, intolerable behaviour and hate speech were also noted at football matches. We witnessed racist outbreaks by fans who imitated the primate-like sounds, alluding to the players of another skin colour; then another incident involving a former player, who, commenting on the game and players, posted on the Instagram the image of the faeces with the message "Go back to Africa", arguing

afterwards that an unknown person had hacked his cell phone, and there was also a fitness coach, who shouted racist comments to a player from a rival club after the match. Not even the consequences of drawing the swastika at the Poljud stadium in 2015 – which is why in October 2018 the match against England had to be played without viewers – reduced the number of intolerable conduct at the stadiums.

Even the fact that the consequences of the UEFA sanctions for drawing the swastika at the Poljud stadium in 2015 were still active this year – which is why in October 2018 the match against England had to be played without viewers – did not reduce the number of intolerable conduct at the stadiums.

Even though in 2018 the CFA, along with the premier league clubs participated in the FARE "Football People" action week, aimed at combating racism and discrimination in football, as well as in the "My stand" and "RESPECT" projects, aimed at awareness-raising among fans and others involved in football on the need to eradicate racism, discrimination and violence, it is obvious that much more effort needed to be invested into achieving this. Namely, fan groups at the stadiums chanted slogans with a number of illegal messages and some of them were: "For Homeland – Ready", "Let's Go, Let's Go Ustasha", "Croatia, the Independent State of ISC", "Us Croats, we don't drink no wine, but the blood of Knin Serb swine", "Mother Croatia, we'll slaughter all the Serbs", "We are not here to talk about weather, we came to rape your women, brother", "Kill, kill, kill the purgers (purgers being supporters from Zagreb)", "Kill, kill, kill the donkeys (donkeys being supporters from Dalmatia)", "Srbe na vrbe" ((Hang) the Serbs on willow trees)", and "...sweet young girls rushed out to the streets of Zagreb, where young Ustasha stride..." with the resumption "...and they fight and they fly Ustasha banner high, for freedom and for home".

ECtHR also deliberated on this problem in 2018, in the Serazin v. RC case, and the court concluded that preventive measures against sports hooliganism are not a violation of the ECHR. Namely, the misdemeanour court adopted a convicting decision against the applicant for engaging in multiple disturbances as a sports fan, and in addition to fining him, the court also sanctioned him with a ban on visiting football matches. The court sanctioned him on the other two occasions as well, with a ban on visiting football matches of Dinamo (Zagreb-based football club) and the national team for a period of one year. The applicant considered that he had been put on trial and punished twice for the same conduct, but the ECtHR accepted the argument provided by the RC that the measure of the ban on visiting the matches is not criminal in character and does not act repressively but preventively, and can be applied irrespective of criminal/misdemeanour persecution and verdict and that therefore it was not necessary to meet the standard of providing evidence, but it can be based on police data on previous unlawful behaviour.

In an effort to identify and prevent hooliganism, the CHC has for years now been monitoring the conduct at football matches, primarily by Dinamo, Hajduk, Osijek, and Rijeka, as part of the "Direct Violence Prevention of Supporters" project, and these reports are regularly published on their website.

"The Power of Tolerance" survey on the experiences of violence, discrimination, and corruption in the sports that was conducted among athletes from the ranks of high school students, and made public in the publication called "Power of Tolerance", showed that the education of all, including future athletes, as well as their parents and associate sports staff, was a prerequisite since the early age. Their experience shows that insults and swearwords are being used, and are mostly directed to the referees, while the cases of physical violence occur in the so-called 'dirty play'; gender discrimination has been noted as well, with male sports teams being advantaged.

The so-called "fair play" has a proactive role in the prevention of violence at the sports grounds, and it is being cultivated by the Croatian Fair Play Board through the publication called "Book of Etiquette in the Sports" for the children of preschool and school age, prepared in cooperation with the MSE, the Central State Office for Sports, the Education and Teacher Training Agency, the Croatian Schools Sports Association and the Croatian Studies, in order to make the children accept both the habit of doing sports and positive values as supporters.

In spite of the perceived progress among individual stakeholders in the fight against hooliganism, violence at the sports grounds and in competitions still remains without an adequate response which would affect all age groups and all the actors: the athletes, sports workers, fans and others.

Recommendations:

139. To officials and political parties, to consistently condemn the speech that stirs intolerance, and to invite their members and followers to refrain from such public appearances and to condemn/sanction those who use such a manner of speech;
140. To the Croatian Radio and Television, to systematically and continuously educate their employees on human rights and combating discrimination;
141. To the Agency for Electronic Media, to systematically and continuously educate their members on professional ethics, hate speech prevention and professional standards;
142. To the Ministry of Culture, to urgently issue a tender for funds from the project "Community Media – support for social inclusion through the media";
143. To the Ministry of Culture and the Central State Office for the Development of the Digital Society, to include IT experts in the preparation of the Media Strategy and the Electronic Media Act, i.e. the Act on the Prevention of Malpractice on Social Networks, in addition to media and legal experts and representatives of civil society;
144. To the Ministry of Interior and the Police Directorate, to coordinate their actions under the Act on Coat of Arms, Flags, and Anthem of the Republic of Croatia and on the Flag and Sash of the President of the Republic of Croatia.

3.26. FACING THE FASCIST (USTASHA) AND COMMUNIST PAST

„I'm sending you these disturbing and scary photos and news. Such toying with Ustasha symbols is simply inadmissible.
Please alert the competent instances, both secular and clerical, and request sanctions, as well as the prohibition of the sale of such shirts. I would say that it is time for us to look up to Austria and begin to punish consistently all those who give prominence to the Ustasha insignia and glorify that shameful regime.
After all, this kind of an "invitation" to stay will, I am convinced, only reinforce the decision to go in many people, and I would say that it is not in the national interest."

Facing the Fascist (Ustasha) and communist past is essential in building human rights-based society. A truly democratic society, based on tolerance, the rule of law and the protection of human rights, must have a clear attitude towards traumatic events from its own past. But the consequences of the Second World War, the post-war period and the age of the communist rule are still present today, primarily through individuals and groups who lessen or justify mass crimes or who give prominence to the symbols of the regimes that are responsible for them, thus causing conflicts, spreading hatred and disturbing citizens.

In the past few years, explicit Ustasha or Nazi symbols have often appeared in the public sphere, as well as those implicitly associated with the Ustasha movement: books are being printed, articles and interviews published, forums held, documentary movies filmed and TV broadcasts, negating or diminishing the criminal character of the ISC. Such views were also publicized in the official gazette of the Catholic Church and on public television, and the reactions of the authorities were inconsistent or there were none at all. For this reason, in November 2018, the Ombudswoman published an analysis under the title "Relativisation of ISC Crimes Violates Fundamental Values of the Constitution, and Absence of Reaction Opens up Space for Hatred"[12]

Graffiti in Gornji Karin

A little earlier, in October, the European Parliament also warned about the significance of official reactions in the Resolution on the rise of neo-fascist violence in Europe, calling on member states

[12] The integral text of the analysis is available at: http://ombudsman.hr/hr/dis/cld/1484-relativizacija-zlocina-ndhnarusava-temeljne-vrijednosti-ustava-a-izostanak-reakcija-otvara-prostor-mrznji

to condemn and suppress all forms of Holocaust denial, including trivialization and minimization of the crimes of the Nazis and their associates as to take measures in preventing, condemning and suppressing hate speech and hate crimes. In this Resolution, among other things, the European Parliament also expressed concerns about the rise of right-wing extremism and neo-fascism in Croatia.

In its October 2018 Resolution on the rise of neo-fascist violence in Europe, the European Parliament also expressed concerns about the rise of right-wing extremism and neo-fascism in Croatia.

The ECRI report for Croatia in 2018 also highlights the strengthening of nationalism, especially among young people, which is mainly manifested by the praise given to the fascist Ustasha regime, as well as through the increase in the number of graffiti directed against the Serb minority, often containing the Nazi and Ustasha symbols.

Displaying Nazi and Ustasha symbols in the public sphere and inconsistency of the authorities in terms of their unambiguous condemnation

Monument to the December Victims in Zagreb (Vanja Radovanović, downloaded from the website "Trešnjevka Mapping", Trešnjevka Culture Centre)

Drawings of the Ustasha "U" can be found throughout Croatia, as well as the salutation "Za dom spremni (For Homeland – Ready)", along with its acronym "ZDS" and hooked crosses. These emblems are also being used in comments on web portals or social networks, as well as in the devastation of monuments from the People's Liberation Fight. Sympathy for the ISC and the Ustasha movement is also expressed in the slogans used to allude to this state and the movement, such as T-shirts with the inscriptions "They Stayed in Croatia (with the word Ostaše, alluding to Ustashe)", with the image of "Uncle Smiley[13]" or the slogan: "ZDS – Knowing that this bothers some[14]", and the reason for additional concern is that they are being displayed by young people, who have highlighted the greeting "For homeland – Ready" at the celebration of the last day of high school through graffiti and through the songs, as well as on their T-shirts. High school graduates in Rijeka drew swastikas and printed the "ZDS" on the monument to the people killed in World War II, and in Zagreb, groups of graduates called it out and part of them wore T-shirts with the inscription "For Ω - Ready", alluding to this salute.

[13] Street language reference to members of the Ustasha is 'ujo' – thus Uncle – and a letter U is put on the face of a Smiley.
[14] The acronym is a pun based on ambiguity. It comes from the Croatian transliteration of Znamo Da nekima Smeta, eventually giving the same acronym as the Ustasha salute 'Za Dom Spremni' (ZDS).

"For Homeland – Ready" was the official salute in the ISC, used at the closing of documents, by which members of the non-Aryan peoples were deprived of their civil rights, interned to the concentration camps or their property was seized, and it is thus inseparable from the crimes committed in WW2. However, during the Homeland War, it was used by the volunteer units of the Croatian Defence Forces (CDF), originally established outside the regular military formations of the Republic of Croatia, and the CDF insignia with this salute stand out to this day.

Photo received in the complaint

Setting up a memorial plaque for killed members of the CDF on a building of the former Ustasha camp headquarters in Jasenovac, followed by the salute "For Home – Ready", gave rise to the government in March 2017 to form the Council to deal with the consequences of the rule of undemocratic regimes and make recommendations on how to deal with the past and legally regulate the public use of the markings, signs and symbols of undemocratic regimes. In February 2018, after a year's work, the Council came up with a Dialogue Document as a platform for consideration on how to legally regulate the use of the markings of totalitarian regimes and movements. The document affirms that the existing legislation comprises the mechanisms for preventing and penalizing their public use, but still – guided by the principles of legal security, certainty, and predictability – their clearer normativization is recommended. The document further says that, due to omissions in work of competent bodies, this salute, as a legacy of the Ustasha regime, has for more than a quarter of a century now de facto and de lege been associated (also) with the Homeland War, and its use in the context of a just and legitimate Homeland War is today (also) considered as a proof that it has gained multiple meanings. This thesis is not acceptable because it does not take into account the fact that even at the time of the Homeland War this salutation was contrary to the Constitution, but there was no proper official response, and it is facing us today as a given condition. However, the Council pointed out that the public use of the insignia with this salute could exceptionally be allowed (only) at the commemoration events for the defenders who were killed in the Homeland War wearing these insignia; then the question arises whether the use of this salute, which the Council found to be unconstitutional, would be contrary to the Constitution in these exceptional situations as well – the final judgment could only be given by the Constitutional Court.

Although the Dialogue Document is not legally binding, it was expected that there would be political will behind it in fulfilling the recommendations contained therein; however, closing the eyes to and inconsistency of the authorities with the treatment of the public use of the salutation "For Homeland – Ready" have continued also after its adoption.

Police and first instance courts inconsistency with the processing of the salutation "For Homeland – Ready" in public use

In the Office of the Ombudsman, we have compiled 37 first instance verdicts on the public use of the salutation "For Homeland – Ready", that were passed from 2010 to 2018 in the proceedings that were most often initiated by the police, and less often by the State Attorney's Office. In 27 cases, the perpetrators were found guilty, eight were acquitted, while the statute of limitation applied in two cases. 29 cases were processed under the Act on Offences against Public Order and Peace (AOPOP), five according to the Public Assembly Act, and three under the ADA, but it is evident that, from 2016, the perpetrators are more consistently being prosecuted under the AOPOP. Despite this, there is still significant inconsistency in the work of the police, when acting as an authorized plaintiff in the prosecution of perpetrators.

Namely, even though in 2017 the police station in Slunj initiated misdemeanour proceedings against Marko Perković Thompson, for shouting the salutation "For Homeland – Ready", while performing the song "Bojna Čavoglave ", they failed to appeal the first-instance acquittal, which was adopted in May 2018, thereby preventing the High Misdemeanour Court to deliberate on the case. In addition, after he repeatedly did the same in 2018, the police did not file new misdemeanour charges, maintaining that it did not qualify as a misdemeanour offence, whereby they referred to the earlier first-instance acquittal, which came into force only because the police did not use the legal remedy that was at their disposal. On the other hand, the Sisak-Moslavina PA filed charges against several persons who were wearing t-shirts or flags with this salutation on the day of the same concert, stating that it was a symbol of hatred towards people of different religious and ethnic origin.

Furthermore, Split-Dalmatia PA did not file misdemeanour charges against former members of the IX CDF battalion – named after Rafael Boban, one of the Ustasha leaders – who lined up in black uniforms in Split on the day of the proclamation of the ISC and shouted "For Homeland – Ready" in order to celebrate the alleged founding anniversary of their unit and pay tribute to the killed defenders in the Homeland War. The police referred to the acquittal of the first-instance misdemeanour court in the same case a year earlier, which they did not appeal as well.

The police fails to press misdemeanour charges Marko Perković Thompson, who utters the salute "For Homeland – Ready" while performing his song "Bojna Čavoglave. However, they have charged those attending some concert and wearing T-shirts or flags with this salute.

In these cases, the police, along with the first-instance courts created a new case law by their own omission, and they later referred to that practice, but this practice should not be the basis of future action. Namely, the acting of the police, as well as the courts, should be founded on the Constitution, international treaties, laws, and other valid sources, taking into account the earlier judgments of the highest courts – not upon deliberations by lower courts in individual cases.

Namely, in the (previous) verdicts of the High Misdemeanour Court in the cases of Josip Miljak et al. (Jž-2824/2014) and Josip Šimunić (Jž-188/2016) as defendants, it was clearly stated that the salutation "For Homeland – Ready" symbolizes hatred towards people of different religious and ethnic affiliation, that it manifests the racist ideology and is disparaging towards the victims of crimes against humanity; the Constitutional Court agreed, acting in these cases upon constitutional complaints (U-III-2588/2016 and U-III-1296/2016), as well as in its deliberation on the naming of the street after the date of the establishment of the ISC (U-II-6111/2013). The Constitutional Court emphasized that it is clear from the Constitution that the RC is not based on the historical legacy of the ISC, which was a Nazi and fascist creation, and as such represented an absolute negation of legitimate aspirations of the Croatian people for their own country, as well as a grave historical abuse of these aspirations, and that by expressing these views, the Constitutional Court also provided a principled judgment on the character of the ISC as a negation of the fundamental values of the constitutional order of the RC.

In addition, the High Misdemeanour Court in 2018, in the case D.K. as a defendant (Jž-1462/2017) confirmed their earlier view, that the salute "For Homeland" responded by "Ready" fulfils all the requirements for a misdemeanour offence, i.e. that it disturbs public order and peace.
After this police failure to act, the SAO, though the authorized prosecutor according to Article 109 (1) of the Misdemeanour Act, stated that the SAO does not supervise the work of either the MI or other competent bodies in charge of initiating misdemeanour proceedings and that they cannot be competent for all the offences.

However, the SAO, or its competent offices, had previously initiated proceedings regarding the use of the salute "For Homeland – Ready!" such as the proceedings initiated by the municipal SAO Zagreb against Josip Šimunić, who saluted the spectators in the football match with the disputed salute. Although he was convicted by the first instance verdict, MSAO did not consider that the fine of HRK 5,000 adequately served the purpose of the punishment, and lodged a complaint, seeking for a more stringent penalty, which the second instance court approved. Furthermore, in 2016, the Bjelovar MSAO filed a bill of indictment against D.M., who during a public event in front of the children saluted with "For Home(land)", to which a few from the group responded with "Ready". In this case as well, MSAO appealed the first instance acquittal, stating, inter alia, that the RC is a full member of the EU and obliged as such to apply the EU acquis, which does not approve of racist speech, but we do not have the information as to whether the proceedings have been finalized.

Although it is clear that state attorneys cannot handle all misdemeanour offences, their work is clearly not aligned, and there are no clear criteria for deciding whether they will act upon this type of cases. It is also unclear why the SAO fails to align the acting of all (lower level) state attorneys' offices in order to avoid situations that in some parts of the RC for the same offence MSAO raises an indictment, conducts proceedings and files motions for legal remedies, while in others they leave it up to the police.

Contentious practices of other state bodies and government representatives

There are controversial practices among other state bodies and government representatives, as well as inconsistency with the clear condemnation of the Ustasha regime and its symbols. In 2017, for example, the President of the RC said that she considered the salutation "For Homeland – Ready" to be an old Croatian greeting and her speech in Buenos Aires in March 2018 also sparked a lot of criticism, when she said that after World War II many Croats sought and found a space of freedom in Argentina, where they could testify their patriotism and express their justified demands for the freedom of the Croat people and the homeland, while in May, when visiting the Jasenovac Memorial Site with the Israeli President Rivlin, she stated that the RC was founded on the anti-fascist struggle and the Homeland War.

In addition, the MCWV has for years financially supported many highly revisionist associations, including the Croatian Home Guard Association, which issues the newspaper with the same name, where the Ustasha movement and the ISC are glorified, and the scale of the crimes committed is denied.

Acting upon the complaint about the placement of the memorial plaque "To Croatian soldiers from Marjančaci who gave their lives in WW2 for the Independent State of Croatia 1941-1948" with the names of twelve victims of the war, we received an answer from the City of Valpovo that these were Croatian Home Guard Members who lost their lives on the "Way of the Cross", except for one who was killed by the partisans in Valpovo, and that the placement of the plaque was initiated by the local branch of the Croatian Home Guard Association and the local community office of Marjančaci, and it was financed by the City Administration. Correspondingly, in the letter the local council of Marjančaci addressed to the City of Valpovo, the killed Home Guard members are called defenders from the Second World War. As regards the allegations from the complaint that the city government does not want to bring a devastated monument to the anti-fascists from the Valpovo area in the former state, the City Administration responded that the monument was not raised to anti-fascists but to the Partisans and that it was not devastated, but it was in ruins because of lack of maintenance. Each killed soldier deserves to be buried in a marked grave and families of missing persons deserve to have a place where they could remember their deceased. However, when setting up a memorial, one should pay attention that the inscriptions on them do not glorify the state that was based on racial exclusivity and is contrary to the constitutional values of the RC. Raising the memorial with the controversial inscription, providing the explanation that the monument to the Partisans is not a monument to anti-fascists, negligence of anti-fascist monuments and heritage, and calling Home Guards the defenders from the WW2 – all this illustrates the current attitude towards the past in Croatia and represents historical revisionism.

However, the victims of Partisan crimes – civilians, Ustasha and Home Guard members, who were found and exhumed at the cemeteries in Vaganac in the Plitvice Lakes Municipality and in Višnjica, City of Lepoglava – were buried with military honours. In this connection, the MCWV responded that they treat all the victims of World War II and post-war period equally, that in concrete cases it was about unidentified victims whose membership in specific units could not be established precisely, and the manner of the burial ceremony is not fully standardized and that they plan to amend the

existing Ordinance, but that they do not want to prejudge on the content of the amendments in terms of giving or denying military honours. The MD stated that they were not the organizers of the burial and that they only provided support to the funeral party for the victims, based on the request from the City of Lepoglava and the Plitvice Lakes Municipality.

It is indisputable that victims of the Partisan crimes had been kept secret and suppressed for decades and they need to be found, exhumed, and buried in dignity. However, the burial of members of the defeated army with military honours leaves the impression of giving official, state legitimacy to a construct and ideology that are completely contrary to the values which have been embedded in the foundations of the contemporary RC.

At the commemoration at Bleiburg in May 2018, Austrian authorities detained and then handed suspended sentences to a number of Croatian citizens, including a member of the Croatian Democratic Union, who raised his right hand and shouted "For Homeland – Ready." In Croatia, such incidents are qualified as misdemeanour offences and penalized lightly, typically with less than HRK 1.000.

The aforementioned lining up of the members of IX CDF (Croatian acronym – HOS) battalion was also attended by the representatives of the City of Split, the Split-Dalmatia County, and the MCWV. The fact that tolerance towards displaying hate features certainly keeps them afloat, was confirmed at the commemoration at Bleiburg in May 2018, during which the Austrian authorities detained and also convicted a number of Croatian citizens, including a member of the Dugopolje municipality, who raised his right hand and shouted "For home(land) – ready." While similar incidents are not uniformly prosecuted in the RC – they are qualified as misdemeanour offences and penalized lightly, mostly with less than 1.000 HRK – in Austria, perpetrators were sentenced to 15 months of suspended sentences, with a probation period of 2 or 3 years. In addition, in order to expand legal certainty and define illegal symbols more precisely, at the end of 2018, the list of movements and symbols that are forbidden in Austria and cannot be publicly displayed was extended to the Ustasha symbols – displaying them is punishable by up to EUR 4,000, and in the case of repetition, up to EUR 10,000.

Croatian legislation allows for sanctioning this kind of expression; however, the prohibited features are not explicitly prescribed and it has been left up to case law to appraise their (un-)acceptability. Thus in the case of D.K. (Jž-1462/2017), who stated in the defence that the law does not state that the salutation "For Homeland – Ready" was forbidden, the High Misdemeanour Court stated that in their view, which was expressed in all previous decisions with no exceptions, a greeting in a public place with the exclamation "For Home(land)" and responded with "Ready", qualifies as misdemeanour offence against public order and peace. Given (some) decisions of the first-instance misdemeanour courts where the defendants were acquitted because the description of their actions was not explicitly stated in the laws, and given the practice of some other state bodies, the prohibited features need to be more precisely standardized. This is also indicated by the actions of some state administration offices which have in 2017 registered the statutes of associations that contained the salutation "For Homeland – Ready", arguing that it was not explicitly banned by any regulation. In addition, in 2017, the MPA has instructed the City Office of General Administration of the City of

Zagreb to register such statutes, until the Council for Facing the Past issues its recommendations. However, not even a year after the Council adopted the conclusions and issued recommendations has the proposal been made for normative changes which would clarify the (im-)possibility of use of these markings.

Denying (the scale of) Ustasha crimes in historiography

Revisionist and even negationist views about the character of the Ustasha state and the scale of the crimes committed therein are particularly present in historiography. Some historians and various researchers, including some priests of the Catholic Church, such as the head of the Archbishopric Archives Department in Zagreb, and Stjepan Razum, the former chairman of the Society for the Investigation of Triple Jasenovac Camp, claim that the camp in Jasenovac, which is indisputably a symbol of crimes committed in the ISC, was merely a labour and internment camp, as was also its official name used by the Ustasha administration, that is to say – it was not a 'death camp'. They deny that it was founded for concentration, isolation, forced labour and liquidation of the Serbs, as well as the Roma and Jews, who were discriminated against by racial laws. In addition, they claim that after 1945, the opponents of the Communist regime and the supporters of the Cominform were detained there, and some even claim that the greatest number of casualties were killed after the war by the post-war regime.

They are unanimous in contesting the individual list of victims put together by the custodians of the Jasenovac Memorial Site public institution (JMS), which contains more than 83,000 names, considering that it had been multiplied several times over. Some argue, for instance, that most likely only 1,000 people lost their lives in the camp, mostly of natural death, primarily from typhoid and similar deceases. They also deny that there were children killed in the camp, even if more than 20,000 of them are on the official JMS list of victims, while others distort facts and circumstances surrounding the suffering among of the Serb children after they had been separated from their parents in Jasenovac and other camps or detention centres in the ISC.

It is likely that there are individual mistakes in the JMS list of victims, as well as it is likely that not every victim and every casualty had been registered, so that only some further research can clarify these individual destinies, but any such research needs to be conducted solely on a scientific and objective basis, with piety towards the victims and respect for the feelings of members of the affected communities. However, these historiographers believe that a new research into the 20th-century history in Croatia should be conducted again, denying the credibility of numerous written proofs and testimonies regarding the scale of the crimes committed, or simply ignoring them, while using the evidence selectively to support their allegations and extracting parts from the context, in order to present the camp in a positive light, or much more benevolent than it really was.

In addition, the opinions that were publicly expressed on the ISC in recent years – such as those by Igor Vukić, President of the Society for the Investigation of Triple Camp Jasenovac, which is also

financially supported by MCWV, who said that accepting the thesis that much fewer people than officially claimed were killed in Jasenovac, would also change the valuation of the ISC character, as well as that a calm discussion and further research would show that the ISC and SAFCNLC in the historical foundations of the Constitution should change their places – lead to the conclusion that their goal is to reinterpret the history of the ISC, thus entirely or partially rehabilitating this collaborationist Quisling construct.

Furthermore, in the program of the public broadcaster, whose role should be to provide objective information, negationist publications by Igor Vukić and Roman Leljak were promoted, which was criticised by the JMS. Nevertheless, Vukić's book "The Labour Camp Jasenovac" was advertised on a daily basis on the same public television, even after the Program Board denounced the views expressed by the author in the CRT program.

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Consequently, the question arises whether, and to what extent, it is legally permissible to deny established historical facts about the crimes committed in the ISC, that is, where the limits are between the freedom of expression and punishable practices.

In arbitrating whether a certain manner of speech is prohibited (hate speech), the ECtHR assesses whether some specific statements can lead to violence and affect public order, whereby a reasonable doubt that public order may be disrupted is sufficient. In addition to establishing whether the denial of crimes represents at the same time the incitement of hatred against members of the victimized communities, it is also important to ascertain whether the purpose of such a speech is to rehabilitate the regime, that is to say, whether its aim is explicitly revisionist, as well as how much harm can a particular speech cause to the groups it has targeted, both in terms of eroding their self-esteem, and in terms of inciting discrimination, violence or other inadmissible acts against them. It would be considered disallowed only if there is a probability that it will incite violence or encourage an unlawful action. However, when it comes to the Holocaust, the ECtHR is very resolute and consistent and has at all times rejected the requests in which the denial or relativisation of the Holocaust was justified by freedom of expression.

Freedom of expression is definitely one of the crucial democratic rights and any kind of restriction should be approached with extreme caution; then again, it also brings responsibility. Undoubtedly, the long covered up and under-investigated communist crimes were a source of huge frustration for the citizens whose next of kin had been killed or got hurt, but it is entirely wrong to, therefore, deny or diminish the Ustasha crimes that preceded them. It is also obvious that objective historiographic research and disclosure of the sources can contribute to establishing the truth about past events, but the racist character of the ISC and the massive scale of its victims is a reality that no one with any sense of decency and respect for the victims should question, let alone diminish or deny in public.

Effects on the communities persecuted by the Ustasha regime

Revisionst interpretations of ISC character and bidding over number of victims in Jasenovac are dreadful insults for the living members of their families and for members of the communities that were victims of the Ustasha regime.

Representatives of the Roma, Serb and Jewish communities, as well as anti-fascist associations, have for years now been expressing concerns and warning about the rise of neo-Ustasha sentiment and revision of history. In November 2018, the parliamentarians of the Serb and Roma national minorities, along with representatives of the Jewish community and anti-fascists, made a plea to the highest representatives of the authorities, asking them to condemn and suppress both hatred towards members of the peoples who were victims of fascism, and the fabrications about the ISC, referring to the events where revisionist attitudes were articulated with the participation of representatives of the Catholic Church and state institutions. They resented the government's attitude towards these occurrences and towards displaying the symbols of the Ustasha regime, particularly emphasizing the unacceptability of using the Ustasha salute "For Homeland – Ready" on any occasion. They also consider it necessary to change the current setup of the Jasenovac exhibition because it does not reflect the true nature of the camp, obscuring the cruelty that captives had been subjected to and failing to show the affiliation of the victims to the communities persecuted by the Ustasha regime. For these reasons, representatives of Serb and Jewish organizations and anti-fascist associations have since 2016 refused to participate in the official state commemorations in Jasenovac, and have commemorated the dead separately.

The current setup of the Jasenovac exhibition does not reflect the true nature of the camp, obscuring the cruelty that captives had been subjected to and failing to show the affiliation of the victims to the communities persecuted by the Ustasha regime.

The memory of the genocide of the Roma is still insufficiently prompted. Samudaripen – an international day of remembrance of Roma victims of genocide, on which the public should be further educated and sensitized – was proclaimed only in 2014. Also, since 2014, the Serb National Council has been recording the cases of historical revisionism, violence, and hatred against the Serbs, pointing at a rise of these incidents. Representatives of the Jewish community point out that the restitution of the assets seized from the Jews by the Ustasha regime has not yet been carried out. They believe that a monument to be raised in Zagreb should be to the victims of the Ustasha – and not to all the European victims of the Holocaust, as this would relativise Ustasha crimes.

It is necessary to respect the demands of representatives of the Roma, Serb and Jewish communities and anti-fascist associations, thus creating the conditions for maintaining a unique commemoration, which would adequately honour the victims and express solidarity with the affected communities.

Treatment of the Communist regime and the symbols coming from the anti-fascist struggle

During the Second World War and in the post-war period, the partisan units, with the communist leadership at the helm, had committed grave crimes and the communist regime had severely violated human rights in the later period as well. Mass murders after the war, arrests, and persecution of political opponents and clerics, as well as the seizure of property, have also discredited the notion of anti-fascism, although its values should also be preserved today, as they are essentially democratic and are contrary to national and racial intolerance of the fascists.

Memorial to Croatian Homeland War soldiers in Zagreb's Dubrava desecrated with a red star

It is the fact, as the Council for Facing the Consequences of Totalitarian Regimes pointed out, that there is an asymmetry between well-known fascist and long-hidden and under-investigated communist crimes. It is imperative to take an equal approach to all perpetrators of crimes, as diminishing or justifying any crimes is not acceptable. Opinions expressed in the public, especially if coming from the politicians, can additionally antagonize the society and contribute to restoring the conflicts from the past, such as in the Facebook post by the SDP parliamentarian, of which we have written more in the chapter on public discourse. Such statements, as well as defiling the monument to the Homeland War Defenders in the Dubrava area in Zagreb through drawing the red star on it, may fuel inappropriate reactions, which makes the entire society hostage to the conflict of the opposing individuals and/or groups.

A part of the community maintain that the ban of the red star, hammer and sickle, as well as the salute "Death to Fascism – Freedom to the People", under which anti-fascist fighters had laid down their lives during World War II, would also be required because, under these symbols mass crimes were committed and the enemies of the post-war regime were persecuted, sentenced to death or sent to prison – above all, because the aggression against the Republic of Croatia in the Homeland War was conducted under the red star, which is why its use in the public sphere disturbs them.

However, in the case of Vajnai v. Hungary (2008) the ECtHR stated that the red star could not be regarded merely as a symbol of the

The statement by a parliamentary deputy that "it seems that the job was not done thoroughly in May 1945, which points at the victors' sloppiness" is entirely unacceptable since it justifies the crimes committed by the Partisans at the end of the war and in its immediate aftermath, thus reinforcing antagonism with the part of the society whose relatives perished in them.

communist totalitarian rule, but it also represented the international labour movement and the struggle for a more just society, as well as certain political parties that are legitimate and active in various CoE member countries. In the Dialogue Document, the Council referred to the ECtHR and stated that it did not consider these multifaceted emblems – which initially indisputably symbolized the anti-fascist struggle in World War II – to be controversial, that is to say, they should be positively presupposed for free public use. On the other hand, as the Council pointed out, they were clearly historically discredited during the Yugoslav Communist rule, followed by the armed aggression against the Republic of Croatia. The Council, therefore, maintains that an explicit ban on them would also be acceptable, if they are being used in public specifically in order to stir violence, and to incite national, racial or religious hatred, or any other form of intolerance, but as the legislation already contains a ban on hate speech in general, it applies to these emblems as well; therefore, the explicit ban would depend solely on the legislator.

However, following the adoption of the Dialogue Document, several members of the Council wrote a dissenting opinion, thus expressing their disagreement with the opinion of the majority, because these emblems were not, like fascist emblems, included in the list of unambiguous emblems of hatred and because their complete ban was not proposed.

Conclusion

According to the Constitution of the RC, national sovereignty in the period of World War II was manifested in the decisions of SAFCNLC, and the ISC is opposed to present-day Croatia. The Declaration on Anti-Fascism by the Croatian Parliament confirmed the anti-fascist democratic foundation and commitment of the RC and called for the affirmation and nurturing of anti-fascist values. On top of that, the Communist system was relinquished, and by the Declaration on the Condemnation of Crimes Committed during the Totalitarian Communist Rule of 1945 to 1990, the Croatian Parliament joined the CoE Parliamentary Assembly in condemning the massive violation of human rights by the communist regimes and expressed condolences, compassion, and recognition to all the victims of these crimes.

Yet, in the Croatian society the occurrence of denying the criminal character of the ISC and the scale of the crimes committed by the Ustasha regime, as well as displaying its symbols and articulating sympathy for it, is on the rise. It is wrong to try to justify the salute "For Homeland – Ready" by connecting it with positive connotations coming from the defence in the Homeland War, as it was also then contrary to the Constitution, but some are still trying to do it. Furthermore, any trivialization, justification or diminishing the crimes committed by members of the People's Liberation Struggle under Communist leadership and subsequent violations of human rights by the Communist regime, as well as ignoring/diminishing the fact that aggression on Croatia during the Homeland War was committedunder the red star , is also unacceptable.

It is wrong to try to justify the salute "For Homeland – Ready" by connecting it with positive connotations coming from the defence in the Homeland War, as it was also then contrary to the Constitution, but some are still trying to do it. Furthermore, any trivialization, justification or diminishing the crimes committed by members of the People's Liberation Struggle under Communist leadership and subsequent violations of human rights by the Communist regime, as well as ignoring/diminishing the fact that under the red star aggression on Croatia was committed during the Homeland War, is also unacceptable.

Only by means of education can we gain social awareness of disastrousness of undemocratic regimes and of the values of democracy, as well as of significance of human rights protection. Findings of the Study on political literacy of Croatian senior high school students (September 2015), showing that even half of them were not certain whether the ISC was a fascist creation, point to both the necessity of education and of fostering the culture of tolerance and cherishing historical remembrance. In its 2018 Report on RC, the ECRI recommended introducing mandatory human rights education as part of civic education in all curricula, especially when it comes to the right to equality and prohibition of discrimination, as a way of combating intolerance and hate speech among young people.

It is on all responsible members of the society to accept an important role of constantly responding to the occurrences of relativisation of the character of these regimes and the scale of crimes committed on their behalf.

The Catholic Church bears the same responsibility as well, as it undoubtedly has a great influence on society, and Cardinal Bozanić's speech upon marking the International Day of Remembrance of Holocaust Victims in January 2019 certainly represents a positive step forward in that direction, when he stated that Auschwitz was a symbol of the suffering of six million Jews and of all Nazi and fascist camps in Europe, but that we should pay special attention to what happened in Croatia, and speak the truth, with no reservations whatsoever, about the horrors of Jasenovac and other camps that were the execution sites of innocent people.

However, the greatest responsibility lies with government representatives who have to take on the responsibility for the respect and enforcement of the Constitution and the rule of law, and who have to put an end to actions that glorify and/or diminish the crimes committed, let alone participating in such events.

Political parties should lay their contribution to the democratic development of the country and building the society free from antagonisms stemming from past conflicts, by adopting a code of conduct which will not allow glorification or rehabilitation of the regimes that were responsible for mass violations of human rights, fully respecting the Constitutional provisions on the RC and the declarations of the Croatian Parliament.

Recommendations:

145. To the Government of the Republic of Croatia and competent ministries, to draft necessary amendments that would more clearly regulate the prohibited emblems of hatred, especially those deriving from ISC;
146. To local government units, to remove the graffiti and inscriptions with the emblems of the Ustasha and Nazi regime, as well as the multi-faceted features of communism, if they are obviously inciting violence, hatred or intolerance;
147. To the Ministry of the Interior and the Police Directorate, to harmonize the actions of police administrations and stations in processing the salutation "For Homeland – Ready", taking into account the case law of the highest courts;
148. To the Ministry of Croatian War Veterans, to amend the Ordinance on the manner of holding of burial ceremonies for the victims from World War II and its post-war period, bearing in mind that giving military honours can mean giving legitimacy to the structures and the ideology which contradict the values of the Constitution of the Republic of Croatia;
149. To the Government of the Republic of Croatia, to resolve the disputes in dialogue with the representatives of the communities affected by the Ustasha regime, in order to hold a joint commemoration, which would adequately give honour to the victims of Jasenovac camp.

3.27. RIGHT TO PRIVACY

"These people really went way out of line... they call me through the morning, and in the night, and over the weekends... I do not pick up on them anymore, but now they have started calling my family members asking them

"Dear Sirs, I hereby inform you that the company ... for debt collection and purchase OF RECEIVABLES IS IN VIOLATION OF THE LAW ON BASIC HUMAN RIGHTS. THAT COMPANY ... CONTINUALLY PUTS AN ENORMOUS PRESSURE THAT NO ONE CAN BEAR, CONSTANTLY CALLING BY PHONE, DISTURBING OUR RIGHT TO PEACE ... I BEG FOR YOUR UNDERSTANDING AS A CITIZEN OF THE REPUBLIC OF CROATIA, WHO IS ENTITLED

"Dear Sirs, I hereby inform you that the company CEI ZAGREB – FOR DEBT COLLECTION AND PURCHASE OF RECEIVABLES IS IN VIOLATION OF THE LAW ON BASIC HUMAN RIGHTS. NAMELY, CEI ZAGREB COMPANY CONTINUALLY PUTS AN ENORMOUS PRESSURE THAT NO ONE CAN BEAR, CONSTANTLY CALLING BY PHONE DISTURBING OUR RIGHT TO PEACE ... THE DATABASE OF THE CEI ZAGREB COMPANY WITH WHICH THEY DISPOSE of IS NOT IN LINE WITH THE LAW OF THE REPUBLIC OF CROATIA, WHICH IS ALSO A VIOLATION OF RIGHTS AND PRINCIPLES... I BEG FOR YOUR UNDERSTANDING AS A CITIZEN OF THE REPUBLIC OF CROATIA, WHO IS ENTITLED TO PEACE AND I AM BEGGING YOU TO PROTECT (me as) A CITIZEN. "

For the first time stipulated by Article 12 of the UN Universal Declaration of Human Rights, and subsequently implemented in numerous international documents, the right to privacy is an important element of the system of human rights protection, which changes in accordance with the technological development of society. Even if the ECtHR did not provide the final definition of the right to privacy outlined in Article 8 of ECHR, it comes out from its extensive practice that it comprises several aspects, such as personal and spatial privacy, as well as privacy of information and communication. Therefore, violations may come by different means and in various ways, for example by means of using modern technologies, media releases, communication over social networks, and alike.

During 2018, we received far more complaints in this area than a year ago: since the entry into force of the EU General Data Protection Regulation 2016/679 (GDPR) in May 2018, citizens have obviously become more aware of the content of the right to privacy and the dangers jeopardizing it on the daily basis. However, as a large number of the claims related to the unauthorized use of personal data, we referred them to the Personal Data Protection Agency, which is responsible for the implementation of these proceedings.

A significant part of the complaints, like in the previous year, was connected with the conduct of debt collection agencies, and the Croatian Consumer Protection Association had been receiving calls from citizens on a daily basis, as the agencies harassed not only them, but also their family

members and employers. Even if relations between the transferees of the debt and agencies are regulated by the COA, there is no legal framework in the RC defining the standards and rules of conduct for the agencies in the process of debt collection. Despite the recommendation from the 2017 Report on the need for the legal regulation of business operations of the Agencies in the context of the protection of the right to privacy, there is still a clear legal gap and citizens are still subject to intrusive behaviour and harassment by individual agencies, thereby endangering their privacy and dignity.

Patients have the right to confidentiality of data relating to their health status, including such conditions of medical examination and treatment that ensure their privacy.

In 2018, the right to privacy of patients came to the front plan again, due to violations of the rights guaranteed by the Act on the Protection of Patients' Rights. The Charter of Fundamental Rights of the EU guarantees respect for private and family life and the right to privacy is raised to the level of fundamental rights in the EU law. It is the right of every individual to have their personal dignity respected by the others, without diminishing their dignity and their moral reputation in the society. However, due to the specific way the reception in healthcare institutions and pharmacies is organized, patients often have to provide sensitive information about their health status in front of other patients. Given that GDPR prescribes that health data is a special category of sensitive personal data, they should be more solidly protected, for example by denying third parties access to medical records.

In the case of a patient whose medical condition was publicly disclosed by individual physicians, contrary to the APPR and without her consent, the health institution justified it by the need to discard the information that the patient had previously disclosed in the public, thereby hurting their reputation. However, this does not reduce the obligation of the health institution to act in accordance with the APPR, i.e. to respect the privacy rights of the patients in public appearing.

Recommendations:

150. To the Ministry of Finance, to draft a bill regulating business operations of legal entities specialized in the purchase and collection of debt claims;
151. To the professional chambers in the health sector, to continuously educate their members about the responsibilities from the realm of protection of patients' rights.

3.28. PROPERTY LEGAL RELATIONS

"I am reporting to you because of the years-long property restitution process, which was unnecessarily delayed beyond all reasonable time limits. Namely, since we had filed our repossession claim on 30 June 1997, 20 years, 10 months and 12 days have passed or 1088 weeks or 7621 days; the procedure of the return is still ongoing. We did not have a scheduled hearing for more than three years. In order to accelerate the proceedings, we proposed the passing of a decision on the return of/compensation for the indisputable particle No effect. The first-instance body issues 12 decisions annually. They don't have employees"

This is one of the complaints sent to the Ombudswoman in 2018 concerning the length of legal actions undertaken by state administration offices as the first instance body, but also by the MJ as the second-instance body in property restitution/compensation proceedings according to the Act on Restitution/Compensation of Property Seized during the Yugoslav Communist Rule.

We have already written in previous reports on the issue of lengthy proceedings in property-legal cases, and the MJ acknowledged of our recommendation from the 2017 Report to build the administrative capacity for faster adjudication of these cases in the second instance, so that the number of civil servants in the Second-Instance Service has risen in 2018, but it still remains to be seen how much effect will this have on the length of the proceedings. During 2018, a very small number of people involved in solving these cases, as well as the complexity of the cases were the main reasons why only 530 cases were settled out of the total of 2,983 appeals filed in restitution/compensation cases, with an average duration of a settlement of up to 2.5 years.

In 16 cases of restitution of real property, and seven cases of restitution of movable property with the characteristics of cultural assets, for which requests had been filed back in 1997, not a single legal action has been taken, of which as many as 11 are in the Virovitica-Podravina County.

According to data we have collected from the SAO services in charge of property and legal affairs in the counties on the number and status of restitution/compensation cases, as well as those involving dispossession, unimplemented procedures of land consolidation, regrouping of holdings, usurpation, expropriation, nationalization of abandoned property and alike, the total of 4,679 restitution/compensation cases are currently ongoing – and this does not include the City of Zagreb and the Vukovar-Srijem County, who failed to provide any information, whatsoever; it is of particular concern that in 16 cases of repossession of immovable assets and in seven cases involving movable property characterized as cultural assets – with the claims filed in 1997 – not a single action has been undertaken in the proceedings. The best situation with the settlement of restitution/compensation cases stays in the Property and Legal Service of the Međimurje County, where out of 390 received cases, 384 have

been settled with final decision, while the remaining cases are ongoing, either in the second instance or at the Administrative Court, or are being handled by MJ. The largest number of unresolved restitution/compensation cases is in the Split-Dalmatia County (1.411), then in the Primorje-Gorski Kotar County (606), the Koprivnica-Križevci County (425) and the Zagreb County (419). In the Virovitica-Podravina County, there were no legal actions taken in as many as 11 cases, ever since they were filed in 1997. At the same time, the number of final decisions issued in 2018 in most SAOs is exceptionally small (5, 10, 14, 16, 20 final decisions in each of the counties) either due to lack of employees, or due to the work on other, more urgent cases, or because the cases were sent back by MJ and the courts and for re-trial. However, if the property restitution cases continue to be settled by this pace, it would take ten more years to resolve the remaining caseload in the first instance.

On top of that, there are 126 cases still ongoing in the first instance involving land consolidation, regrouping of holdings, usurpation, expropriation, nationalization of abandoned property, and the property owned by 'optanti' (ethnic Italian population in Croatia in WW2, also called esuli in Italian), mostly in the Šibenik-Knin County, Zagreb County, Primorje-Gorski Kotar County and Split-Dalmatia County. A total of 18 second-instance cases pertaining to the aforementioned agrarian legal measures are currently being processed by MJ, and in 2018 there were no new appeals received. A lot of proposals for expropriation were received and have remained unresolved in 2018, and in the SAOs of the Primorje-Gorski Kotar County, Koprivnica-Križevci County, Zagreb County, and Split-Dalmatia County, over a thousand of them are currently ongoing. The average settlement of property and legal cases in the first instance is between three months and two years, and in the Split-Dalmatia County up to five years, while the settlement of property restitution/compensation cases can last as long as for ten years or so.

This lengthy actions by administrative bodies violate both the right to trial within a reasonable time and the right to ownership, which also follows from the ECtHR judgment in the case Štokalo and Others vs. RC from 2008, relating to the denationalization procedure, stating that the duration of the proceedings before the administrative bodies is relevant when deciding on a breach of the right to a trial within a reasonable time, and it is necessary to take measures in order to expedite the settlement of property-rights cases in the first and second instance, and the Constitutional Court took the same position in its decision U-IIIA-4885/2005 of 2007.

27 requests for the restitution of movable property with the characteristics of cultural assets have for 19 years now been awaiting the adoption of the Regulation on the special type of compensation for movable property that are an integral part of collections, museums and galleries, which requires coordination between the MC and the MJ, which we have continually written about in all the reports since 2014. Namely, e-consultations on the draft Regulation were conducted in 2016, but the MJ did not proceed with the adoption procedure since the MC did not submit to them the necessary data required for the preparation of the Fiscal Impact Assessment Report. On the other hand, the MC argues that they cannot do it, because they have not got all the data prerequisite for restitution, because there is no final list of art items and for some they even do not know where they are, and because there is no model for the compensation or the known mode of it. Furthermore, they argue

that not even the approximate estimate of the total value of movables that are cultural goods can be established, and therefore no statement of the fiscal impact cannot be drafted, and that the MC is neither in charge of assessing and establishing the value of these art items, nor do they have competent experts to do it. Consequently, they consider that the state administration offices in charge should complete the initiated procedures, that they should establish the list of the movable property based on own decisions and eventually decide on the compensation, in order to determine the total number of items for which funds need to be provided for the final payment.

Unfortunately, this is an obvious example of a years-long lack of cooperation and communication between the MC, MJ and SAOs in the counties, the result of which is that the legal rights of citizens guaranteed by the Act on Compensation for Property Seized during the Yugoslav Communist Rule have remained a dead letter for the past 20 years.

Recommendations:

152. To the Ministry of Justice, to carry out administrative supervision over all property-legal affairs services of state administration offices in the counties where no action in the proceedings has been taken since 1997;
153. To the Ministry of Justice and the Ministry of Culture, to reach an agreement on a solution to the problem of return of movable property with characteristics of cultural assets that are an integral part of collections, museums and galleries by adopting the Statement of Fiscal Impact Assessment or otherwise, in order to adopt a Regulation on a special type of compensation for moveable property with the characteristics of cultural assets that are an integral part of collections, museums and galleries.

3.29. CONSTRUCTION

"I reported illegal building by my neighbours to the building inspection and asked the building inspector to carry out an on-site check and take measures within his competencies within 30 days. Two months have passed since, and there was no on-site check. Please inform me of the legal deadline for the inspection and what remedy can I resort to in case of non-action and please, make certain that the building inspection respects the law."

The most complaints in the field of construction received in 2018 were the complaints relating to the work of building inspections upon citizens' reports on illegally built, upgraded or reconstructed

buildings, while the number of those regarding the legalization of illegally built buildings ("legalization") has decreased.

Apart from the fact that there are more of them, the content of the complaints about the work of the building inspection is different, so they now mostly refer to construction, upgrading or reconstruction without the required documentation on the construction of family houses, auxiliary buildings, holiday houses and parts of co-owned residential buildings that were built after 31 June 2018, which has been designated as the deadline for submission of legalization requests by the Act on Legalization of Illegally Built Constructions. They also referred to illegal construction on the protected part of the coast or in the areas under protection, and it is evident from them that citizens are still not clear about the competences and the way in which actions are taken by the building inspections, as it performs ex officio and in accordance with the assessment of priorities, as well as that there are other possibilities for determining the facts, apart from getting out in the field. Finally, citizens' submissions do not have the character of a request, obliging the inspections to handle them within a prescribed timeframe, so this should be communicated to them continuously in an accessible way. This is also supported by the attitude of the MCPP, that "the wider public is not clear about competencies, powers and the manner of carrying out building inspections", but we have no information which measures have been taken or planned in order to change this. According to their data, the construction inspectorate received 1,200 citizens' submissions in 2018, of which they answered to 820 in writing, explaining their competence and manner of work, in addition to about 2,000 inquiries which they answered by e-mail. As it is certainly not enough to keep them interested, and especially the wider public adequately informed, the number of submissions and rush notes asking for their action is still on the rise.

We mentioned all of these circumstances in earlier reports, and as the adoption of the Amendments to the Building Inspection Act was part of the 2018 Normative Action Plan, in our 2017 Report we recommended to the MCPP that it should regulate the work of building inspections in terms of efficiency, especially in the procedures for the execution of a decision on the removal of illegally built buildings, with clearly defined deadlines and execution criteria. However, the Act on State Inspectorate was adopted, which came into force on 1 April 2019, and which provides for the transfer of the building inspection under it. We will continue to follow up on whether it will foster positive changes.

Recommendation:

154. To the Ministry of Construction and Physical Planning, to respond to the claims filed by the citizens and other submissions within the statutory deadline..

3.30. RIGHT TO HEALTHY LIFE

Environmental and nature protection, public health

"Who will be liable for holding back the information on the results of incidence, morbidity rates and rates of cancer growth and cardiovascular diseases? Who will be liable for the unavailability of results and trends of spontaneous miscarriages in Slavonski Brod since 2014? ... It is great for us when the air smells, because then we know that there is hydrogen sulphide in the air. It's great when it smells: we feel nervous and stressed, we have a prickling sensation and watering eyes, but we can explain to our kids why it smells and we can take them home from the playground and close them in the house..."

The constitutional right to healthy life comprises the protection of the environment, nature and health from harmful environmental impacts that are caused by human activity – most often by the traffic and industry, the use of chemicals, incineration, agriculture, landfills and other sources. In 2018, as a result of complaints received from the citizens, civic initiatives and CSOs, we instigated 71 procedures, which is 36.5% more than in 2017; along with ten other cases that we have launched on our own initiative and with pending cases from previous years, it shows that the environmental integration into other sectoral policies is still low, the ecological awareness underdeveloped, and the protection of the constitutional values of nature conservation and the environment still ineffective.

The new Draft Environmental Protection Plan was submitted to the Government for adoption in February 2019, but it was not publicly presented, unlike the previous one, which was put on public consultation in 2016, and envisaged the introduction of a binding health impact assessment (HIA) prior to planning and the construction of large industrial and other infrastructure facilities, as we have been recommending since 2014. By the Decree on Environmental Impact Assessment, adopted in 2017, people's health became a mandatory content in the Environmental Impact Study, but we have no knowledge of how it is being implemented in practice. Since 2016, the adoption of the Public Health Development Strategy has been delayed and its drafting started only in September 2018, and it is vital for the development of a health ecology that follows the adverse impacts of the environment on human health, as well as for the introduction of HIA.

Almost all complaints concern health threats due to air, water, soil, non-ionizing radiation, waste landfill, noise or light pollution, and systematic prevention and health protection mechanisms have not been established in these cases. Some projects are being implemented sporadically, as a reaction to a new situation and they are publicly known primarily due to the long-term engagement of local civic initiatives, such as the Civic Initiative for Clean Air and the Mothers of Brod in Slavonski Brod.

Thus, the CIPH has produced a Vukovar-Srijem County Health Assessment of potential health effects of arsenic in the water for human consumption and the IPH of the Brod-Posavina County has since 2016 conducted a Study on the Impact of Environmental Factors on the health of citizens of Slavonski Brod. In line with our recommendations from the 2017 Report, in addition to the metal analysis, the

parameters of particular matter (PM10 and PM2.5) and gases (sulphur hydrogen, nitrogen oxides, ozone, hydrogen sulphide and benzene) have subsequently been included into the study, and will be followed for several years. However, we do not know whether and how the feasibility study for the planned waste management centres (WMGs) will include an assessment of health impacts as well, since the studies on impact assessment on the health of citizens living near the waste disposal sites of Karepovac and Lončarica Velika have not been made, and it is obvious that the precautionary principle is inadequately applied.

The regulations in this area largely changed in 2018, based on the Government's Decision of August 2018, with the MoI taking over the work of the National Protection and Rescue Directorate (NPRD). Our recommendation from the 2017 Report on the establishment of extra-budgetary Civil Protection fund in order to ensure financial assets for protection and rescue in major accidents and disasters has not been adopted, and it remains to be seen how much will the above change improve and mutually synchronise the civil protection and the fire safety systems.

By the same decision, the MEPE has taken over the work of the Croatian Agency for Environment and Nature (CAEN), and the establishment of the State Inspectorate is also new, for which the regulations also had to be modified. Modifications and amendments to the Environmental Protection Act (EPA) were adopted, and on that occasion we have proposed that the concerned public should be given the possibility to formulate the public interest in the protection of environment, which is currently granted only to the State or to the LRGUs, but this proposal has not been accepted. It remains to be seen to which extent will the amended EPA help improve the control over certified environmental professionals, especially because they have sometimes used outdated or incomplete data and did not sufficiently go out to the field. The MEPE did not carry out any inspection controls in 2018, nor did it propose issuing or abolishing of any licences to the persons certified for these tasks, although we have recommended enhanced monitoring in that matter in our 2017 Report.

According to the preliminary data provided by the MEPE for 2018, the environmental protection inspections were mostly involved in dealing with the improper transportation and collection of waste and the lacking monitoring of air quality, while the nature protection inspectorate mostly inspected nature conservation conditions and measures in natural resource management plans, as well as in interventions relating to the environmental impact assessment and the assessment of eligibility for the ecological network.

Croatia is rich in waters and nature parks and has a variety of marine and land ecosystems. It places second in the EU with the largest land-based area and a significant marine area under the Natura 2000 ecological network, which is the key implementing instrument of the Directives aiming at long-term protection and conservation of the most endemic and endangered European species, habitats and ecosystems. In the 2019 EC Report, the EC urges the Republic of Croatia to designate the remaining marine areas in Natura 2000 and to enhance the cooperation with the economic sector as well as investment into concrete nature protection measures. Another reason for concern is the new

2018 Hunting Act which limits the public right to information about the wildlife and related environment, contrary to the Aarhus Convention, the Constitution, the EPA and the ARAI, of which we have unsuccessfully been warning the Croatian Parliament, along with many environmental and nature protection association and the Information Commissioner.

Climate Change and Disaster Risk

At the beginning of 2018, the Government established the National Council for Sustainable Development, which proposes, monitors, analyses and coordinates the implementation of measures and activities from the Objectives of the Sustainable Development Program by 2030, but it did not adopt the Low Carbon Development Strategy of the RC, which was put on public consultation in 2017. This is both a fundamental document for climate change mitigation, and the principal economic, developmental and environmental strategy, which is required in order to achieve the changes presented in the Scientific Report from the 2018 Intergovernmental Panel on Climate Change (IPCC) on the cessation of fossil fuel use and the shift towards renewable energy sources and energy efficiency in the following 10 to 20 years.

Croatia has for an extensive period of time now been exposed to adverse effects of climate change and to significant economic losses, in which she takes the third place in the EU, alongside the Czech Republic and Hungary.

In 2018, a draft of the Climate Change Adjustment Strategy of the RC by 2040 was drafted, with a view to 2070, where adjustment measures in the "most vulnerable" sectors were defined: fisheries, hydrology, water and maritime resources management, agriculture, biodiversity, forestry, health, risk management, spatial planning, tourism and energy, and its adoption is scheduled for mid 2019. The Government of the RC submitted the Seventh National Climate Change Report and the Third Bi-annual Report according to the UN Framework Convention on Climate Change (UNFCCC), where it is stated that the RC has for an extensive period of time now been exposed to adverse effects of climate change and to significant economic losses, in which she takes the third place in the EU, alongside the Czech Republic and Hungary. The 2019 EC report for the Republic of Croatia also highlights the increased risk of flooding in the Danube region and storms and forest fires along the coast.

in the wider coastal area, where some of the old city centres do not have a hydrant network at all, in others it is old and there is either not enough pressure or not enough water, while on some islands in the tourist season the pressure drops very low and there is not even water for drinking.

The Republic of Croatia is also a signatory of the Hyogo Framework Plan 2005-2015 and the Sendai's Disaster Risk Reduction Framework 2015-2030, within which the priorities were set in the first national Disaster Risk Assessment: flooding, earthquakes, fires, and developing risks (rockslides, landslides). The catastrophic flood in the Vukovar-Srijem County area in 2014 and the large Split fire in 2017 have pointed to the need for more effective fire-fighting and civil protection systems and better

communication with citizens. 2018 was not a fire year, and it is therefore encouraging that the Croatian Forests have preventively undertaken some fire-fighting defence activities in Dalmatia and established video surveillance on 43 locations in the Zadar, Šibenik-Knin, Split-Dalmatia and Dubrovnik-Neretva counties, with subsequent promotional activities.

However, the state of the hydrant network remains a point of concern, as the MoI confirmed that it was completely adequate in Istria and certain counties of continental Croatia, whereas it was inadequate in Gorski kotar and Banija. There is another problem in the wider coastal area, where some of the old city centres do not have a hydrant network at all, in others it is old and there is either not enough pressure or not enough water, while on some islands in the tourist season the pressure drops very low and there is not even drinking water. Particularly worrying is the situation of the outdoor hydrant network in the area of the Split-Dalmatia County, where the coverage is more or less adequate only in the areas of Split, Trogir, Solin, and in the parts of Kaštela and Omiš, where the pressure and water volumes are also insufficient on a number of hydrants. Other parts of the County do not even have the network, or it has not been maintained.

The risk of landslides in the RC is also high, especially in the Sisak-Moslavina County, where a landslide became active in 2018, which led the Government to decide on the criteria and ways to provide housing to the residents whose houses or buildings were destroyed or damaged. The Study on Landslide Risk Assessment in the Republic of Croatia was completed in 2018, and included the analysis of the landslide Kostanjek in Zagreb, covering approximately 100 hectares, with exceptionally large potential consequences for humans and material goods.

Protection of Air, Soil, Water and Sea

"The whole Slavonia stinks of petroleum coke, but the difference here, compared to the rest of Slavonia is that it is under my window and I could not make any use of my own house for more than five years. All chemistry and biochemistry experts assured me that I should not live there. Dear Madam, me and my family have invested our whole lives in this house and now at the age of 77 I am supposed to go to live in the street. Try to understand me. I have informed all the state institutions and nothing happened."

According to EEA data from the Air Quality Report in Europe for 2018, climate change and air pollution are the biggest environmental issues to be embarked upon simultaneously, and particulate matter (particulate pollution)particles are particularly dangerous, boosting climate change and global warming and cooling, and affecting human health. The World Health Organization (WHO) has been running reports on air quality since 1950, in recent years apostrophising the link between air pollution and premature deaths of heart attacks and stroke, lung diseases and cancer. Short-term and long-term exposure to air pollution in children and adults can lead to a lung function decline, respiratory infections and asthma and other health problems, the most dangerous particulate matter being nitrogen dioxide and ground-level ozone.

Almost all inspection surveillances by the Environmental Inspection Department were performed under the Air Protection Act, and the decisions they issued in 2018 were largely associated with obligatory measurements of air pollutants and data submission. They have submitted five special purpose measurement requests, but these proved to be insufficiently effective in either determining the actual state of affairs or providing for concrete air protection, because the MEPE can only appraise whether a local government unit has adopted a Decision on Specific Purpose Measurement and the assessment of the level of air pollution, without checking its quality or solidity.

We could not obtain data on the air pollution caused by a large 2017 fire, which also hit the Karepovac waste landfill, when the measuring stations Karepovac, Split, Kaštela and Solin recorded a many-fold increase in values of particulate matter and hydrogen sulphide, about which citizens were not adequately informed. It should also be recalled that, for the purpose of air quality monitoring in the area of the Split-Dalmatia County area, as part of the State Network for Continuous Air Quality Monitoring, the network still uses only the data obtained from private measuring stations of the polluters. However, the MEPE is implementing a project of its expansion and modernization, planning to build five new ones and to modernize 19 existing measuring stations in the next three years.

However, the most infamous example of air pollution is Slavonski Brod, as recorded in our previous reports, and it is now being solved at the interstate level through the project of complete gasification of the Bosanski Brod Oil Refinery, which is scheduled by the third quarter of 2019. According to the information by the City of Slavonski Brod, the overhaul started in January, and according to the BH line minister, it could last for a whole year. In addition to the gasification, the City of Slavonski Brod in 2018 also requested that the citizens of Slavonski Brod be granted a special status in public tenders and calls for energy reconstruction of family houses, as a prerequisite for their healthy housing, and according to the information available to us, they have not received any answer yet. Protests by the citizens of Slavonski Brod for clean air and water have intensified, due to an eco-incident in March 2018, when the pipeline which was being checked for the purpose of gasification of the Bosanski Brod Oil Refinery started leaking petroleum products into soil and water.

In addition to the gasification, the City of Slavonski Brod in 2018 also requested that the citizens of Slavonski Brod be granted a special status in public tenders and calls for energy reconstruction of family houses, as a prerequisite for their healthy housing, and according to the information available to us, they have not received any answer yet.

There are still no soil monitoring measures in environmental monitoring programs and no data on the status of the soil, and unlike 2017, environmental inspectors in 2018 ordered a soil sampling measure twice: once in the event of an eco-incident in Slavonski Brod, during and after the soil remediation process in which pollutants were found and removed, and the second time in the Zadar County, for the purpose of determining the impact of deposited slag on the environment, which has not been established.

There is no comprehensive land and soil protection policy in the EU, and a draft Directive is announced for 2020. In the RC, this issue is mentioned indirectly in environmental, waste, industry and forestry regulations as well as in the field of agriculture, where monitoring is envisaged for arable plots of land for which the pollutants, sources of pollution and maximum values have been defined – but not for the land used for other purposes, such as forest land, parks and playgrounds, settlements and industrial zones.

The eco incident in Slavonski Brod has also contaminated the water environment, so the citizens' protest was primarily directed at unclean water for human consumption, being mostly drawn from groundwater, and then processed to become potable. The EU acquis is trying to ensure the good condition of all bodies of water by means of removing the sources of pollution (for example from agriculture, urban areas and industry), as well as physical and hydrological changes and through the flood risk management, and in the 2019 Report on the Republic of Croatia the EC notes that surface waters are under a major pressure from the pollution from scattered sources. From 2013 to 2017, CAEN recorded 231 cases of water pollution, mainly involving minor unpredictable pollution incidents in the Danube water area, and less so in the Adriatic area. The most common causes were traffic accidents, waste water from the industry and illegal waste disposal, and there were also those which remained unknown.

Taken the significance of the protection of water springs and water resources from pollution and taken the eco incident in Slavonski Brod, one would need to conduct an analysis of the efficacy of protection measures for potable waterworks and water supply facilities and to publish the data of the analysis.

The Croatian Waters have conducted the monitoring of surface, coastal and groundwater in 2018, but due to the fire in the Main Water Management Laboratory, fewer analyses were performed than in 2017. Taken the significance of the protection of water springs and water resources from pollution and taken the eco incident in Slavonski Brod, one would need to conduct an analysis of the efficacy of protection measures for potable waterworks and water supply facilities and to publish the data of the analysis.

In 2018, for the first time, we received several complaints from environmental CSOs due to the suspicion of degradation of the maritime demesne when carrying out construction works that damage the environment and/or the sea bottom with a habitat of a strictly protected species, which is particularly sensitive as it is an area under special protection of the RC, of which 4986 km2 are protected under Natura 2000.

Fisheries, mariculture, maritime traffic, excessive construction on the coast, input of pollutants from land resources and a negative impact of nutrients from anthropogenic sources, most affect the state of purity of the sea in Croatia. In 2018, the MEPE recorded 14 cases of pollution of the sea and the coastal area, and issued three decisions for the discharge of waste water, while the MSTI confirmed seven reports of pollution of the sea or inland waters, coming from marine entities. In 2018, the EC

published the Report on the Implementation of the Marine Strategy Framework Directive, which did not include seven member States due to delays in the submission of data, and unfortunately there are no data or guidelines for the Republic of Croatia. The EC estimates that it is unlikely that a good environmental condition will be achieved by 2020, which is the main commitment stipulated by the Directive.

Plastic pollution

85% of marine litter is made up of plastics, which is also found in the Adriatic Sea, so it is significant that in 2018 the first European Plastics Strategy was adopted, with which the EU seeks to take a leading role in solving this problem globally, moving to a more circular economy in accordance with the Sustainable Development Program 2030 and the Paris Agrement. The Directive on the Reduction of Single-use Plastics and the Alliance for Circular Economy in the Plastic Sector are an essential part of the European Plastics Strategy, whose realization also began in 2018. In December, the Council and the European Parliament reached an agreement on the Directive for the Reduction of Single-use Plastics announces it as the most ambitious legal instrument for dealing with marine litter issue.

The Directive is intended to prohibit 10 single-use plastic products that are the largest source of contamination: straws, ear sticks, plates, cutlery, beverage mixers, balloon sticks, oxo-degradable plastics and polystyrene food and glass containers and payment of waste management costs and cleaning by manufacturers will be provided, including cigarette butts and fishing gear; therefore, its adoption and proclamation is being waited for with impatience. However, the environmental organisations which joined the Break Free from Plastic movement – represented in Croatia by the Greenpeace Croatia and the Green Action – criticize the non-binding nature of its goals, as well as that the extended responsibility of manufacturers depends on the arrangements between the governments, manufacturers and others, thus slowing down the solution of this problem. After the adoption of the Directive, the states will have to harmonize national legislations no later than 2021, so it is necessary to start with it as soon as possible. The Alliance for Circular Economy in the Plastics Sector will seek to equalize the supply and demand rates of recycled plastics.

Sustainable waste management

"Sir ... you say you understand local inhabitants of Marčelj, and you too would be angry at our place. But no, you are not angry, you do not understand or do not want to understand what is happening up here and that is a public secret ... MARIŠČINA is one of the most common dumps, dangerous for the health of the locals. Are you familiar with high concentrations of PM10 particles? Do you know what these particles are, what are the tolerable values and what are their daily concentrations in the middle of the day? ... You received more than one complaint, have you answered? Not to me ..."

According to the EC Report of 2019, waste management is the most critical sector in the RC, and the transition to circular economy is slow. Even the MEPE stresses that the share of waste disposal and the share of the landfills that are not eligible for certification, due to technical equipment, mode of collection and disposal, types and quantities of decommissioned waste and monitoring, is still very high (77% in 2016), and they must be closed after 31 December 2018. Therefore, in October 2018 the MEPE drafted a proposal for the dynamics of closure of non-hazardous waste landfills in the RC, in line with which 311 such landfills were recorded in 2017, of which 182 were closed and 129 remained active. The plan provides an overview by the counties and the current status of each active landfill, which are grouped into three groups: 27 with less than 65% of compliance that should be closed by the end of 2018 and remedied, 50 having 66-90% compliance and continuing to work until capacity is filled and are required to complete the rehabilitation processes, and 21 already well-equipped landfills with sufficient capacity that meet more than 90% of the criteria and continue to work until the WMC is opened. These data do not include the Istria County and the Primorje-Gorski kotar County, as there the WMCs Kaštjun and Marišćina were opened.

Since 2015, we have been handling citizens' complaints about the Lončarica Velika waste dumps in Osijek and since 2016 for Karepovac in Split, as we wrote in previous reports. In December 2016, the MEPE issued the Decision on Amendments to the Environmental Permit Requirements for Lončarica Velika landfill, concerning the opening of a new waste disposal surface, its rehabilitation and final closure, but citizens still complain about inadequate implementation of environmental protection measures and the continuation of work of that landfill until the WMC is opened in Orlovnjak. Unlike in 2017, The Environmental Protection and Energy Efficiency Fund (EPEEF) has provided co-financing for the rehabilitation of both landfills in 2018, which began in late 2017 at Karepovac. Also, we have been handling complaints about the Jakuševac waste disposal site, which is being rehabilitated by the funds provided by the City of Zagreb.

According to the EPEEF data, 60 of rehabilitated landfills will continue with operations until the WMCs are opened, and only two have been opened: Mariščina and Kaštijun, out of altogether 13 scheduled. New Waste Management Plan of the RC from 2017 to 2022 envisages that feasibility studies for planned WMCs should be made, which should show the measures that need to be implemented in the wider area of their coverage, in order to justify the planned capacity and ensure minimum impact on the environment and health. According to the waste management order of priority, the priority is given to waste prevention, preparations for re-use, recycling and other recovery procedures, and disposal, including waste disposal, is least desirable because of the risk of pollution of the sea, water, soil and air, endangering biodiversity, noise, smell, explosion, fire and the like.

In addition to landfill rehabilitation, in 2018, the EPEEF co-financed 29 local government projects for the construction of recycling yards and issued a public procurement call for separate municipal waste collection tanks for all local government units, and according to the waste management priority list, as many of them as possible should apply

The EPEEF also invested significant funds in the WMCs Babina Gora, Lećevica, Piškornica, Biljane Donje, Lučino Razdolje, Bikarac, Zagreb, Mariščina and Kaštijun. The feasibility study for the Lećevica WMC has been completed, but it has not been publicized yet, and in 2018 the studies for Babina Gora, Piškornica and Lučino Razdolje WMCs have been updated, which will continue in 2019. However, in accordance with the Waste Management Plan and the Consultation Code with the Interested Public, in the 2017 Report we recommended the MEPE to make all feasibility studies for the planned WMCs, including the revision of the foreseen locations, and an environment and health impact assessment, which was rejected with the explanation that these studies were not subject to public consultation.

It is also necessary to make publicly available all feasibility studies for all planned WMCs, with the revision of the foreseen locations, an assessment of the impact on all environmental components, including soil and human health.

How important it is to follow the waste management order of priority and to take care of the environment and health of citizens living near the WMC, is evident from the complaints of the citizens of Marčelja to the work of the Marišćina WMC and from the lack of communication with the Primorje-Gorski kotar County, the Municipality of Viškovo, the MEPE, the Ekoplus, Public Health and Education Institute of the Primorje-Gorski kotar County and others, which is why the citizens continue to protest, widely covered by the media. They complain about inadequate air quality monitoring, especially on particulate matter, for which multiple excessive values have already been recorded, which is why they fear for health and are asking for WMC closure or for emergency accommodation. Although 30 inspections have been carried out by the MEPE, MH and the MoI, there are still shortcomings in the operations of this WMC, which applies the worst waste management procedure, and disposes even of organic substances that should be collected separately.

Due to the obvious problems in the operations of Marišćina WMC, it is necessary to examine to what extent does this WMC, but also the Kaštjun WMC, really contribute to a separate collection and recycling of waste, given that the RC with 21% is significantly below the EU average of 46%. It is also necessary to make publicly available all feasibility studies for all planned WMCs, with the revision of the foreseen locations, an assessment of the impact on all environmental components, including soil and human health.

Protection against noise, non-ionizing radiation and light pollution

"On a car-wash station, which is still under construction, the developer has put on lighting for which he does not have the use permit yet. The light turns on after 16:00 and stays on all night long. The lighting is set up to illuminate the surrounding houses and gardens, and the intensity of light is such that it causes nausea, headaches and stress. In addition, the light illuminates all the interior of the house, and the stay on the terrace and the yard is not possible. My six-year-old child after 5 pm cannot go out on the terrace or even look out through the window, and all the shutters in the house are down."

Environmental contamination by noise affects concentration, disturbs rest and communication, while noise pollution causes stress and impairs hearing. Noise comes from a variety of sources, from nightclubs to loud manufacturing facilities, shipyards and wind power plants, and the sensitivity depends on strength, rhythm and content, individual characteristics of the person, and the length and type of exposure, as well as the exposure regime. It is therefore clear that for effective protection against noise, i.e. for protection of health, it is crucial to measure it. However, what comes out of citizens' complaints is that the measurements are still often carried out at a pre-arranged time and/or location, under conditions of lower noise levels than are actually present. If the measurement is not carried out in realistic conditions, at the most exposed location and at proper times, involving the equipment that produces the strongest noise, it cannot show the actual burden of noise, nor can the necessary protection measures be determined, which is mostly what the citizens continue to complain about.

Since 2014, there is a lack of comprehensive approach to protection against non-ionizing radiation from mobile base stations, which is required in order to improve the right to health, healthy life, and access to information, as well as stakeholder participation in decision-making processes. Citizens' complaints and initiatives come from Zagreb, Pula and Split, but from other places as well, where the base stations are in the immediate vicinity, as close as 20 meters away from homes, schools and kindergartens and at the window level. They are being placed on the roofs or in the chimneys of private and even dilapidated houses and residential buildings without knowledge of the citizens and despite their opposition, who then inform us of their health problems, demanding their removal.

If the measurement is not carried out in realistic conditions, at the most exposed location and at proper times, involving the equipment that produces the strongest noise, it cannot show the actual burden of noise, nor can the necessary protection measures be determined, which is mostly what the citizens continue to complain about.

As in previous years, most of the inquiries showed that the base stations were put to work without a use permit, for which telecommunications operators were only fined. Inspection decisions on the removal of receiver antennas, which were issued because of incompatibility with the City spatial plan of Pula have been abolished, owing to the Decree on the Standards of the Development of Electronic Communications Infrastructure and Other Related Equipment, against which the MCPP filed an appeal with the High Administrative Court in 2018. Certificates of compliance with the permitted level of electromagnetic fields that are being issued by the Croatian Regulatory Authority for Network Industries (CRANI), and verified by the MH, have largely been issued, while the impact of some baseline stations on health is still not sufficiently considered and there is no methodology for it, even though WHO considers it potentially carcinogenic to humans.

In the Public Consultation at the end of 2018, the MH presented amendments to the Ordinance for Electromagnetic Field Protection, in which we have supported the new commitment for EM field users to carry out further measurements and to deliver the results both to the interested public and

to the ministry, as well as the time limit for the first measurements after the stations are put into operation. However, this deadline should be further limited to a maximum of 30 days, the differentiation between external and internal areas of increased sensitivity should be introduced, and the minimum height of the base stations stipulated, as well as their distance in relation to other structures, particularly residential and educational buildings. Such changes could contribute to better health protection, but at the time of writing of this report, the revised Ordinance did not enter into force so we do not know its final content. However, changes are also needed in the field of construction and spatial planning, in order to provide a better control of their installation; the inclusion of the MEPE in the work in this area is also required. CRANI announces the introduction of 5G technology and even simpler conditions for setting up wireless access points of low power and high range, so additional caution is required, as is an even more stringent application of the precautionary principles.

Although the Light Pollution Protection Act has been in force since 2012, we have received the first complaints only in 2018. In one of them, a precise location is given of a problematic night lighting, where light beams are focused on a family home where children live and whose tenants have noted health problems (nausea, headache and stress). The second case involves a night reflector that illuminates the nearby family house. Despite the exact indicators of light pollution and the law, in both inspections carried out by the Environmental Inspectorate it has been established that there was no violation of the law, so they even did not try to determine the level of pollution, let alone limit it. The MEPE pointed out that the provisions of the act are general, and as implementing regulations have not been adopted, so that the inspection was not directed at controlling its implementation and therefore did not pronounce any measures.

It is obvious that because of the failure of competent authorities to adopt the implementing regulations the citizens are not effectively protected against light pollution, and that both legal safety and the principle of constitutionality and lawfulness are thus being jeopardized. But in 2018, a new Light Pollution Protection Act was adopted, coming into force in April 2019, with a deadline of 12 months for the adoption of implementing regulations. In order to prevent the repetition of the same situation, the MEPE should start drafting the implementing regulations as soon as possible, and by then it should carry on with inspections, pronouncing measures in order to protect citizens from light pollution without delay.

Recommendations:

155. To the Ministry of Health, to complete the development of the Public Health Development Strategy as soon as possible;
156. To the Ministry of Health, to ensure further development of the health ecology and in cooperation with the Ministry of Environmental Protection and Energy, the Ministry of Health shall introduce a mandatory Health Impact Assessment (HIA) prior to the planning and construction of large industrial and other infrastructure facilities;

157. To the Ministry of the Interior, to carry out preparatory actions for the establishment of the extra-budgetary fund for civil protection;
158. To the Ministry of Environmental Protection and Energy, to enhance the supervision of certified persons performing professional tasks of environmental protection, especially in terms of their fieldwork and the accuracy of the data they use;
159. To the Ministry of Environmental Protection and Energy, to finalize and submit for adoption Low-Carbon Development Strategy of the RC, in accordance with the Code of Conduct of Consultations with the Interested Public;
160. To the Ministry of Interior, that the Fire Protection Inspectorate increases the number of field visits and checks of fire protection plans by local government units (JLP (R) S);
161. To the Ministry of the Interior, the Fire Protection Inspection should continue with the enhanced monitoring of the hydrant fire fighting network in order to comply with the Ordinance on the hydrant network;
162. To the Ministry of Environmental Protection and Energy, to ensure monitoring of soil and to introduce soil monitoring measures in the environmental impact assessment procedures, with mandatory sampling;
163. To the Ministry of Environmental Protection and Energy, to the Ministry of Health and to the Croatian Waters, to make an analysis of the effectiveness of protection measures for drinking water sources, as well as of waterworks and water supply facilities, and to ensure and implement an effective protection thereof;
164. To the Ministry of Environmental Protection and Energy, after the adoption of the Directive on the Reduction of Single-use Plastics, it immediately starts with the harmonization of legislation and with its implementation;
165. To the Ministry of Environmental Protection and Energy, to examine the level of compliance of Mariščina and Kaštjun WMCs with the waste management order of priority and to ensure the implementation of the necessary measures for the effective protection of all environmental and health constituents at these locations;
166. In accordance with the Waste Management Plan and the Code of Conduct with the interested public, the Ministry of Environmental Protection and Energy shall draw up all feasibility studies for the WMCs planned, with the revision of the foreseen locations and an assessment of the impact on the environment and health;
167. To the Ministry of Health and to the Ministry of Environmental Protection and Energy, to ensure conducting of a professional study on the impact of the landfills of Karepovac and Lončarica Velika on citizens' health, which will include air, water and soil sampling;
168. To the Ministry of Health, to enhance supervision over the implementation of noise measurement;
169. To the Ministry of Health, further enhances the protection of health and publishes a list of sources of electromagnetic fields in the form of registers, as part of the new Ordinance on the Protection against Electromagnetic Fields;

170. To the Ministry of Construction and Physical Planning, to ensure a stronger control of the establishment of base stations of mobile operators, in cooperation with local government units and interested public;
171. To the Ministry of Environmental Protection and Energy, to adopt implementing regulation as soon as possible with the new Law on Light Pollution Protection, and in the meantime to ensure that inspections are carried out and measures taken in order to protect citizens from light pollution.

4. PERSONS DEPRIVED OF LIBERTY AND THE FUNCTIONING OF THE NATIONAL PREVENTIVE MECHANISM

4.1. THE PRISON SYSTEM

Respect of dignity and prevention of torture and other forms of ill-treatment represent universal principles of treatment of persons deprived of liberty (PDL). These two principles form the basis of our work on cases covering the prison system. While considering the filed complaints, the Ombudswoman protects their human rights and freedoms and safeguards the rule of law – and this goes beyond mere application of legal norms and encompasses the rule of justice and protection of all members of society – whereas preventive visits of penal institutions and issuing of recommendations strengthens protection against torture and other acts of cruel, inhuman, or degrading treatment or punishment.

In 2018, we acted in 169 cases involving violation of rights of persons deprived of liberty within the prison system, carried out 47 field investigative procedures and visited six penal institutions.

4.1.1. COMPLAINTS FILED BY PERSONS DEPRIVED OF LIBERTY IN THE PRISON SYSTEM

,,...The worst thing was to accept the fact that I was locked behind the bars and that my freedom was taken away from me and that life goes on, but without me...

"I am sending you this letter because I want to charge criminal charges. I was beaten by a judicial policeman and I want to denounce him. That's why I am scared when it comes to my future stay in this prison. I was beaten simply because I rang him (...) at 4 am; I wanted to complain to the superior about my roommate because he was so noisy, rattling and banging in the cell, drinking his coffee. And this superior..., the minute he opened the door, he grabbed me by the jaw, he pushed me against the wardrobe and started punching me all over my body. I don't really know why. I didn't't say anything. I couldn't't say anything. He wouldn't't let me. I know that he's not allowed to hit me unless I refuse to do what I am told or I strike at him. His shift is notorious for hitting and threatening prisoners. This scares me. That is why I got in touch with you. I want to denounce him because I don't feel safe and because I was beaten by a judicial policeman... If you fail to act, I will send my complaint to the USKOK (Office for the Suppression of Organized Crime and Corruption) and I will turn to the media...

Although prisoners contact us for a number of reasons, ranging from psychological and/or physical ill-treatment to sending pleas to let them see their pets in prison, most of the complaints deal with healthcare and treatment by officers of the security and treatment departments. Also, they are dissatisfied with inappropriate accommodation conditions, options of transfers to other prisons and benefits they may be granted.

REQUEST

„... I am asking you to help me because I haven't been contacted by my dentist for the last 3-4 months. I cannot eat because I don't have teeth in the upper jaw. I have five front mandibular teeth so I have to swallow my food. This hurts my stomach on a daily basis so I have to take antacids. I can't eat like this anymore, I can't live like this anymore. This is ruining my stomach and my health. Please, give me the approval to get dental prostheses for the upper and lower jaw so that I can eat and live normally. This is not a life. This is torture. I desperately need prosthesis. I cannot eat pureed foods because it makes me sick and it gives me an urge to vomit. Please, let the dentist call me so that I can have these five teeth pulled out. I keep writing to him, but he's not calling me. Yet, he calls all the other prisoners but he keeps ignoring me. I am urging you to help me because I have no one else to turn to. I have told the treatment officer about this. I mean, everyone in the state prison knows about my problem, but no one cares. I just want to eat like a normal person and I want to lead a normal life, just like all the other prisoners. That's all I'm asking. Mrs. Lora Vidović, I cannot stand this any longer. I am desperate."

In addition, they still complain about the fact that they were not referred to physical therapy or about the waiting times for referral to treatment, inappropriate dental care and, generally, failure to act in line with the recommendations of specialist doctors. To a smaller degree, they complain about not being called to undergo a check up by the prison physician, although they requested it.

A prisoner was recommended a shoulder surgery due to the injury he had sustained during the arrest procedure. He was not referred to the surgery given the complex post-surgery treatment, not available within the prison system. Classified as a high risk prisoner, he is not allowed a interruption of serving a prison sentence to undergo treatment. He said that the physician had advised him to strengthen the shoulder girdle muscles, go to the gym and take whey proteins before the surgery that would, in all probability, be performed only after his release. Yet, he is not allowed to do any of these things for security reasons. That's why he thinks that "apart from being sentenced to prison, he has to go through daily pains".

In several penal institutions, e.g. in Rijeka and Glina, prisoners complain about having to wait too long for dental checkups. For instance, a prisoner claims he was taken to a dentist two months after making such a request. The dentist told him he had come too late and that he had to have his tooth pulled out. Yet, this was not done because he had not been subjected to dental X-ray. Given the constant pain, he cannot chew food. Since he is not offered a knife when the food is being served, he has to tear foods and swallow it as such.

Difficulties occur in terms of prisoners' right to healthcare with prisoners who are deprived of their legal capacity, when making decisions about treatment. The reason for this is the fact that, as a rule, prison physicians and legal guardians (if non-family members) rarely communicate, although good

communication is crucial in these cases. The same applies to legal guardians' involvement in using legal remedies available to prisoners.

They still complain about inappropriate vehicles used for transport. For instance, a prisoner with hip injury was forced to sit on a metal bench in the back of the vehicle, without the seat belt. Since his hands were tied, he couldn't use them to support his body. When taken from Split to Dubrovnik, he had to press against the other side of the vehicle by using his legs simply to maintain balance. This had caused serious strain to his hip so he was injected painkillers for the subsequent three days.

As a rule, prisoners do not complain about waiting times to talk to the treatment official, but they are dissatisfied with follow-up activities conducted too late or in an inappropriate manner. Some of their complaints revolved around difficulties in sending money to family members through the prison system and assistance in obtaining residency to be issued an ID. Several prisoners complained that privileges in terms of getting outside of high-security state prisons had not been granted to them despite meeting the necessary conditions laid down in the Execution of Prison Sentence Act (EPSA) and the performance evaluation of implementation of individual programmes of execution of prison sentence. Even though privileges as such do not constitute rights, but incentives available to prisoners in line with the conditions set down in the EPSA and the Ordinance on Prisoners' Privileges, and following the completion of the performance evaluation of implementation of individual programmes of execution of prison sentence, we have analysed specific cases to determine whether all prisoners had been treated on an equal footing in terms of being able to enjoy the privileges. To ensure transparency when making decisions about privileges, our recommendation is that the head of prison issues a t written decision specifying the matter. Some penal institutions apply this practice.

Illiterate prisoners have difficulties in using judicial remedies because they need to submit a written request to talk to the head of prison in order to file a complaint orally. This leads to an absurd situation in which other prisoners or even judicial policemen write such requests on their behalf.

Some of the complaints touched upon the need to protect prisoners' and their family members' personal data in a more effective manner. For instance, personal details (name and address) of a prisoner's wife had been available to all the prisoners for a period of several days simply because the notice board included minutes of the meeting of the expert team, detailing the approval of a prisoner's request to have his belongings sent to his home address. Although the prisoner had asked for prompt removal of the details from the notice board, this was done only several days later. In addition, illiterate prisoners have difficulties in using legal remedies because they need to submit a written request to talk to the head of prison in order to file a complaint orally. This leads to an absurd situation in which other prisoners or even judicial police officer write such requests on their behalf. These prisoners (few in number) should be visited by the treatment staff on a regular basis. Also, they should be informed about possibilities of filing complaints orally to the head of prison and, upon their request, provide them a pre-prepared, tailor made form to submit an oral complaint.

Prisoners are also dissatisfied with high costs of phone calls that have remained the same despite any potential discounts on the telecommunications market. They are forced to pay high charges because there is no other way to phone someone outside of the prison.

Since prisoners' rights do not include freedom to choose the prison where they will be sent, in all the complaints referring to this matter, we took action only if we deemed that the place where the sentence was served negatively affected some of their rights. For example, a female prisoner serving her prison sentence in the Požega State Prison got in touch with us. This prison is the only penal institution accommodating female prisoners with sentences of more than six months. The prisoner complained that her family that lived in Dubrovnik was unable to visit her. By referring to the ECtHR case law, that has repeatedly stated that inability or difficulties in maintaining family contact due to distance between the prison and home address represented breach of the Article 8 of the ECHR, we have issued a recommendation to the Central Office of the Prison System and Probation Directorate (COPSPD) proposing a consideration to refer the prisoner to a penal institution closer to her family. Transfer to a different prison was also recommended in the case of a prisoner who had served a sentence in the same penal institution for the previous 24 years because we thought that change of penal environment after so much time could have a positive impact on fulfilling a purpose of serving a sentence. Neither of our proposals in terms of these two cases was taken into account by the COPSPD. Instead, the Office made a short reference to provisions of the EPSA on who submits the proposal for transfer and who makes the accompanying decisions. This approach is inappropriate to both the prisoner and the Ombudswoman's office.

Even though, according to the 2017 Report on the Conditions and Work in State and County Prisons and Juvenile Correctional Institutions, we have seen a constant decrease in fights among prisoners since 2014, last year we recorded an increased number of complaints about prison violence. In addition, we took action in response to media reports.

The penal institution considered that failure to report sexual abuse and potential injuries received by the prisoner, that is, his belated report lodged several months later, proved the fact that he was manipulating them. Such an approach is contrary to numerous science and expert-based perspectives and research that point to reluctance on the part of victims of sexual abuse to report the event and this makes the actual number of victims much higher.

Regardless of the underlying cause, i.e. whether the increase in the number of complains could be explained by a spike in violence within the prison system or increased willingness to file complaints about it, prison violence still represents a problem that calls for continuous, systematic and comprehensive action. Prisoners do not report the fact that they are victims of violence or they report it too late because of shame, fear of revenge, lack of trust in the system, scarce information about protection measures or for other reasons. In this setting, their vulnerability to violence, i.e. physical or psychological distress, simply continues. In case of a complaint filed by a prisoner who claimed to

have been exposed to sexual abuse, the penal institution informed us that his failure to report the incident and potential injuries, that is, his belated report lodged several months later, proved the fact that he was manipulating them. Such an approach is contrary to numerous scientific and expert-based perspectives and research that point to reluctance on the part of victims of sexual abuse to report the event and this makes the actual number of victims much higher. We have indicated this fact to the penal institution. Also, persons with psychological or intellectual disabilities are more subject to different forms or abuse or manipulation. This is especially true if they are in financial difficulties. For this reason, we have recommended to the COPSPD to adopt the rule on treatment of this vulnerable group that would improve their safety and ensure respect of their fundamental human rights and freedoms during their stay in the prison system. Our recommendation has been taken into account. Although preventive measures, such as early detection of potential victims of prison violence and analysis of factors that may affect the risk of abuse (e.g. the choice of penal institution, work engagement, increased security supervision etc.), cannot solve the problem, they represent a step in the right direction.

4.1.2. NPM ACTIVITIES IN THE PRISON SYSTEM

In 2018, we visited the county prisons in Pula and Karlovac, Glina and Lepoglava state prisons, Zagreb Prison Hospital and Požega State and County Prison[15] without prior notice. The visits to the Prison Hospital in Zagreb and Požega State and County Prison were regular, whereas the purpose of other visits was to establish the level of implementation of warnings and recommendations issued after the previous visits. We issued 85 recommendations and warnings with the aim to promote prevention of torture and other acts of cruel, inhuman, or degrading treatment or punishment. The final evaluation of their implementation will be made after we receive all the necessary feedback. If, during the visits, we realized that the certain recommendations and warnings had not been implemented, they were highlighted once again in the individual reports.

Warnings to COPSPD	Recommendations to COPSPD	Warnings to the penal institution	Recommendations to the penal institution	Recommendation to the MH
10	19	17	38	1

Accommodation conditions

According to records of the COPSPD, as of 31 December 2018, in high security units in 10 out of 14 prisons, the occupancy rate stood at 100% or more. As in 2017, the highest occupancy rate was recorded in the Osijek Prison (a staggering 161%).

[15] Throughout the report, the term "Požega State and County Prison" has been used because the visit had taken place place in July 2018, i.e. before it was divided into two separate penal institutions (1 October 2018).

The majority of the visited institutions in high security units could not meet the set spatial standard (4m2). Many prisoners voiced their concern over this. Furthermore, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) lays down a threshold of 6m2 as a minimum standard for personal living space in prison establishments. This rule is taken into account in the Pula County Prison and the Lepoglava State Prison, for instance. The situation is aggravated by the fact that lavatories are not completely separated from the rest of the room in some penal institutions. This is the case with the county prisons in Karlovac, Pula and Požega. Prisoners pointed out to the scale of the problem. The lack of privacy when having to go to toilet, bad odours that spread to the rest of the room, even during meal time, degrades them.

Only one room is equipped with a toilet in the Prison Hospital. Prisoners who are accommodated in other rooms have to use shared facilities scarce in number. At times, as many as 40 prisoners are forced to share two toilets. More often than not, one is clogged. Urinal bottles are placed underneath all beds in shared cells for men, even if this has no medical justification. The majority of them were not emptied.

Overcrowding has a negative effect on many aspects of prison life. For example, in this setting, it is difficult to separate smokers from non-smokers or certain categories of prisoners. Given the lack of space and large number of persons with mental disorders, patients suffering from somatic illnesses are grouped together with mental health patients without somatic symptoms. This arrangement makes any treatment options rather difficult.

Even though penal institutions, larger ones in particular, purchase clothes and shoes for prisoners, during our visits, prisoners complained about the fact that they had not been equipped with these items in line with the Ordinance on Underwear, Clothes, Shoes and Bed Linen for Prisoners. Also, they say that the existing clothes and shoes are all worn out because they are not replaced with new items after the set deadline. A prisoner in the Lepoglava State Prison said that he had been wearing working shoes too big for him that he had inherited from another prisoner. In addition, very many of them were not provided with duvet covers. Some of them used their own. Just few of them said that the penal institution had secured one for them, although this was a requirement laid down in the Ordinance.

Treatment work with prisoners

The penal institutions we visited lacked treatment officials. The shortage was most severely felt in the Glina and Lepoglava state prisons. The situation became worse compared to 2017. Despite the fact that three officials were employed in Glina, the prison still needs more of them because four officials had taken long sick leaves. Currently employed officials have to step in to replace their colleagues who are absent. At times, they have to cover groups up to 100 prisoners and this makes any form of systematic work completely impossible. They are obliged to respect deadlines in terms of prisoner-related administrative tasks so they cannot work inside wards as much as necessary.

Unsurprisingly, some prisoners pointed to the lack of treatment officials as the main reason for their limited availability in an anonymous survey. As a rule, prisoners talk to treatment officials at their request only. Usually, these meetings are very short. Accordingly, in the first three months of 2018, treatment officials recorded an increased number of disciplinary breaches of prisoners. This can be accounted for by the fact that treatment groups have become larger in size and that the officials cannot physically be present in wards as they used to be.

Compared to 2017, in 2018, in the Lepoglava State Prison, fewer officials were engaged on the implementation of individual programmes of execution of prison sentence. In that respect, at least five new persons have to be employed to ensure smooth work. For this reason, the size of treatment groups increased to cover approximately 44 prisoners (an increase of seven prisoners compared to 2017). Since this penal institution, inter alia, accommodates prisoners serving long prison sentences, high-risk prisoners and recidivists in its high security unit, i.e. highly demanding and complex in terms of treatment work, it is urgent to ensure sufficient number of treatment officials with the right competences: psychologists, social pedagogues and social workers.

Despite shortages of experts, additional efforts have been made to step up treatment activities in the ward under increased security supervision in the Lepoglava State Prison and the ward accommodating drug addicts in the Glina State Prison.

Also, insufficient space in wards for treatment officials' work with prisoners remains a problem. The Zagreb Prison Hospital lacks adequate premise for treatment work with persons deprived of liberty and special rooms for leisure activities. In addition, no one among treatment officials within the treatment department, except the head, has his/her own room., so officials and prisoners talk in corridors, in the hospital ambulance or sitting room, if empty. These conditions make their work much harder. The Karlovac County Prison is a good case in point: a premise for treatment work located in the ward was turned into a room for accommodation of persons deprived of liberty. The treatment official is thus constrained to talk to prisoners in the dining room used by judicial policemen. Such a practice is indeed unacceptable.

Foreign citizens who do not speak Croatian account for a significant number of detainees in the Karlovac County Prison. Treatment officials have adapted their work accordingly. These prisoners do not have to submit a written request if they need to talk to the treatment official. All they have to do is to inform the judicial policeman about it and the treatment official is summoned upon request. Also, the official sometimes visits the room where foreign citizens are kept on his own initiative to check whether he needs to intervene. This practice could be a good model that others might follow.

Some of the prisoners are still very dissasified with the procedure of making decisions about privileges. They question its impartiality and they do not understand why prisoners with the same level of performance do not enjoy the same privileges.

Although there is no systematic solution to the problem regarding the completion of primary education on the part of prisoners, the Glina State Prison could be a role model. This prison, in cooperation with the adult education institution Karlovac Public Open University (POUKA), has stepped up activities in terms of their primary education. The programme is financed by the MSE. Travel costs are borne by POUKA. Six prisoners that we talked to were satisfied with the programme. They were not happy with the fact that lessons took place once a week only.

Staff at the Karlovac County Prison is very much engaged to motivate detained juveniles to continue education. For instance, in 2018, one of them completed primary and started secondary education programme while detained for three months.

Some of the prisoners are still very dissatisfied with the procedure of making decisions about privileges. They question its impartiality and they do not understand why prisoners with similar performance evaluation of implementation of individual programmes of execution of prison sentence do not enjoy the same privileges. Some penal institutions do not adopt written decisions on the type and scope of privileges. This is the case with the Glina and Lepoglava state prisons. In the Požega State and County Prison, at the level of the Treatment Department, the head adopts three written decisions on the performance evaluation of implementation of individual programmes of execution of prison sentence for female prisoners. The decisions pertain to the three types of different security levels (high, medium and low) at the department with individual evaluations of implementation of individual programmes of execution of prison sentence for all female prisoners and relevant privileges they can obtain. A treatment official orally informs each female prisoner about this.

Healthcare

As indicated in our previous reports, systematic problems in terms of prisoners' healthcare still represent a problem.

Neither the Požega State and County Prison nor the Pula County Prison made provisions for administration of therapy by healthcare practitioners (nurses/medical technicians) only. Big efforts have been made in the Pula County Prison to change this, but due to changes in working hours and given the existing number of employees, they administer therapy on all days apart from Saturday evening and Sunday, when this is done by judicial policemen. This is also the case with the Požega State and County Prison, where judicial policemen administer therapy over the weekends and on holidays.

In line with our recommendation, to ensure privacy during a psychiatric examination in the Pula County Prison, a special room with glass windows has been set to allow for visual monitoring, without having to ensure physical presence of the judicial policeman inside the room.

A judicial policewoman is not present during medical examination of female prisoners conducted in the Požega State and County Prison, but she attends all the examinations and small scale surgeries in health facilities outside the prison. Female prisoners are particularly disturbed by the fact that she remains inside the room during gynaecological examination. This practice is unacceptable and amounts to degrading treatment. Privacy must be maintained for female patients during medical examinations. Presence of a judicial policewoman must be ensured only upon the physician's request.

Judicial policewoman is not present during medical examination of female prisoners conducted in the Požega State and County Prison, but she attends all the examinations and small scale surgeries in health facilities outside the prison. Female prisoners are particularly disturbed by the fact that she remains inside the room during gynaecological examination. This practice is unacceptable and amounts to degrading treatment.

On her field visits to the Pula County Prison, a psychiatrist does not check upon all the prisoners who requested examination, but only those deemed as urgent according to the prison physician. Rather than focusing on each patient for ten minutes only, the psychiatrist examines as many patients as she can, taking into account professional guidelines on the duration of examination.

After talking to persons deprived of liberty, we realized that there was still huge interest for psychiatric examinations, especially in case of those who had been incarcerated for the first time and who had problems adapting to the new environment. Yet, they stated that the psychiatrist was not readily available. This was true of the Karlovac County Prison and Požega State and County Prison.

The Zagreb Prison Hospital has experienced severe shortages of healthcare staff. The current situation is alarming due to the number of specialists, psychiatrists in particular, who have left. Out of eight previously engaged, only one has remained. Two external specialists have been engaged on the basis of a temporary service contract.

Physicians are available round the clock. One is always on call after the regular working hours (7.30-15.30) and is in charge of taking care of all the hospital patients. Physicians on call may be different specialists. Regardless of their specialisation, they are in charge of all the urgent cases, based on the severity of condition. For instance, if a surgeon is on call, he/she is required to take care of a psychiatric patient with acute condition, intervene in case of an epileptic seizure or drug withdrawal episode. By the same token, a psychiatrist will face similar problems when having to intervene if a patient has a condition that pertains to the branch of internal medicine (blood sugar regulation, small open wound that needs stitching etc.). There are also problems in terms of technical equipment, available space for

The Zagreb Prison Hospital has experienced severe shortages of healthcare staff due to the number of specialists who have left. The current situation is alarming, especially in terms of the number of employed psychiatrists.

examinations and interventions and continuous medical training on emergency and invasive medicine that all physicians on call have to undergo.

Work arrangements also partially account for the shortages of physicians because they combine regular working hours (8 hours) and shifts (12-hour working day, 24-hour break, 12-hour night shift, 24-hour break). A random selection of physicians' working hours shows that some of them are not engaged during regular hours over a course of couple of days. Since the work with hospitalised patients can only be performed during regular hours, physicians do not maintain continuity in interaction with patients. Plus, this practice results in longer hospital stays. It remains unclear whether this type of work organization meets the criteria of medical profession.

Faced with shortages of doctors, institutions cannot ensure smooth work with patients in line with medical standards even if the existing staff works overtime. For instance, in the public healthcare sector, a psychiatrist covers 10 hospital patients. In case of the Prison Hospital, one psychiatrist, and two who work partially to assist him, work for some 130 hours a month and are in charge of over 80 patients. This practice is unacceptable.

Given the specific nature of the prison population, one can say that physicians work under special working conditions. Availability of doctors in the Prison Hospital may be improved only partially by relying on overtime arrangements. However, this solution should only be temporary. To solve the problem in the long run, more physicians should be employed.

Maintenance of order and security

According to records of the COPSPD, 1,931 special measures for maintenance of order and security were implemented last year. Means of coercion were applied in 56 cases. This represents a 16% increase compared to 2017

	2014.	2015.	2016.	2017.	2018.
No. of PDL (*as of 31 December*)	3763	3306	3079	3190	3239
Special measures	1968	1769	1775	1656	1931
Means of coercion	59	53	57	46	56

Even though these figures are not always indicative of higher repression in the prison system, once again, they do point to the lack of uniform procedures that we have been highlighting for a number of years now. For example, a special measure involving accommodation in the specially secured room free of dangerous objects was applied on 32 accounts. The measure was not applied at all in two largest penal institutions (Zagreb County Prison and Lepoglava State Prison), whose joint capacity amounts to 1,149 prisoners. On the other hand, it was applied in as many as nine cases in the Šibenik County Prison (capacity of 119 persons). Furthermore, large differences were observed between two largest high-security state prisons in terms of the measure "isolation from other prisoners". The measure was implemented in 187 cases in the Glina State Prison, twice as much as in the Lepoglava State Prison (94 cases).

Inconsistent criteria of application and/or implementation of measures that additionally violate prisoners' rights and freedoms have multiple negative effects because they produce feelings of injustice and arbitrariness, as indicated in our previous reports. The problem is even worse if this situation occurs in the same penal institution. For example, the Treatment Department in the Požega State and County Prison for female prisoners includes just one room for isolation. The room size does not exceed 8.52 m2. If the measure is applied for several prisoners at the same time, some of them stay in a solitary confinement room (3.92 m2 in size) in much worse conditions and this puts them in an unequal position.

Even though in previous years we pointed to irregular medical supervision when implementing special measures and referring prisoners to solitary confinement rooms, the problem has remained. For example, in Pula County Prison solitary confinement is interrupted on Fridays or Saturdays. Prisoners are then referred back to the solitary confinement room on Mondays because medical supervision cannot be provided over the weekends. The same applies to the Glina State Prison. Solitary confinement for shorter periods of time is usually employed on working days to ensure medical supervision. Also, the problem occurs in the Požega State and County Prison and Lepoglava State Prison.

Since in our 2017 Report we pointed to an increase in implementation of the severest special measure – isolation – and lack of frequent and detailed assessment of its implementation, the fact that it was not implemented at all in 2018, is a positive sign. This is not to say that it should be abolished altogether, but rather, to keep in mind the necessity and purpose of its implementation.

Since there is no list of persons who underwent thorough searches, some prisoners are more likely to be subject to searches compared to others for no apparent reason. It is clear that these searches must be conducted in certain cases, but treatment of this kind seems to be arbitrary and this is a worrying sign because it intrudes upon a person's privacy and sense of dignity.

Female prisoners in the Požega State and County Prison warned us about the unclear criteria applied when conducting thorough searches of prisoners after work, which is not being applied to all but to some randomly selected. Since there is no list of persons who underwent thorough searches, some prisoners are more likely to be subject to searches compared to others, for no apparent reason. It is clear that these searches must be conducted in certain cases, but treatment of this kind seems to be arbitrary and this is a worrying sign because it intrudes upon a person's privacy and sense of dignity. To make things worse, institutions do not keep records on conducted searches. Rather, a written record about removal is compiled if prohibited items or substances were found during searches. This practice contravenes the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela rules) that require appropriate records of searches, in particular, strip and body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

During our visit to the Zagreb Prison Hospital, we found out that a pepper spray with allowed harmless substances (coercive measure) had been used against a detainee an hour after he had been admitted to the acute psychiatric ward. The report submitted to the court, *inter alia*, stated that he had refused his therapy and judicial policeman's order to go to the ambulance At the same time, the report indicated that he had used swear words, insulted the officials and waved his hands in the air shouting: "I don't want any medications". Even though the use of coercive measures was in line with regulations, it ran counter to international rules. In accordance with the opinion of the UN Committee against Torture, member states are required to take measures to further restrict the use of pepper spray and prohibit its use, *inter alia*, on persons with mental disabilities (CAT/C/DNK/6-7, 2016). The fact that the guideline on the use of the pepper spray was issued in November 2018 can be considered a step in the right direction, since we have been calling for a clearer definition of the criteria on its use for a number of years now.

We paid special attention to instances of restraint during our visit to the Zagreb Prison Hospital. The EPSA and CPA do not contain provisions on restraint measures. Also, its use may not be based on the Act on Persons with Mental Disorders (APMA). The Zagreb Prison Hospital has tried to bridge this gap by issuing the operating procedure for application of coercive measure but adoption of this procedure remains unlawful since it deals with coercion. In addition, a lack of space and shortages of psychiatrists and nurses/medical technicians make it more difficult for the staff to carry out the restraint procedure similarly as it is conducted in psychiatric hospitals. For example, although the procedure states that restrained persons should not be among other people, i.e., they should be isolated in a special room with increased supervision, this condition cannot be met. The Zagreb Prison Hospital is equipped with just one single bed room with video surveillance. In other words, as a rule, restrained persons stay in their rooms and this is risky in terms of safety, but may also amount to degrading treatment for the affected individual. Furthermore, regular or appropriate monitoring of restrained persons cannot be carried out due to the shortage of healthcare staff (no more than two nurses work afternoon and night shifts, plus, very often, a psychiatrist is not present). According to the available information, a doctor makes a decision on the restraint, taking into account medical criteria. The initiative often comes from the security department officials because they spend most time with persons deprived of liberty. On the other hand, one gets the impression that judicial policemen do more than just initiate the process: they influence largerly when the restraint procedure should begin or end and this is absolutely unacceptable. We have already warned the Zagreb Prison Hospital about putting adult diapers on restrained persons who do not suffer from incontinence. The CPT has done the same.

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The majority of persons deprived of liberty that we talked to during our visits or that filled in anonymous surveys had a positive opinion about judicial policemen's conduct. However, as was the case previous years, they added that some individuals did not behave in a professional manner and that they humiliated them. They speak very reluctantly about prison violence. On the other hand, surveys point to a problem in that respect. For instance, as much as 57% of surveyed female prisoners serving their sentence in high-security ward of the Treatment Department in Požega State and County Prison stated that they had been attacked or threatened by other prisoners. Also, additional 19% of them said they had been threatened. In the case of the Lepoglava State Prison, 48% of surveyed prisoners said they had been exposed to physical violence and/or threats by other prisoners.

Judicial protection

According to records of the COPSPD, in 2018, the number of complaints filed to the heads of prisons amounted to 479, which represents a 16% decrease compared to 2017. The Lepoglava State Prison accounted for the majority of complaints (54%). In some penal institutions, not a single complaint was filed. This comes as a surprise because this was a case with the Osijek County Prison, continuously rated among most crowded institutions. Prisoners on remand (1,041 of them in the prison system as of 31 December 2018) filed only 37 complaints in 2018. Such a small figure leads us to conclude that they distrust this legal remedy, i.e. they think that it cannot help them to protect their rights. The fact that they are not familiar with legal protection mechanisms only makes things worse. That is why we have repeatedly been emphasising to the COPSPD how important it is to draft a letter of detainees' rights of and translate it into foreign languages but this has not been done yet. Even though prisoners were mostly familiar with the right to file complaint, the survey respondents often indicated that they had not done that because they thought that would cause additional problems, rather than solve, which is unacceptable.

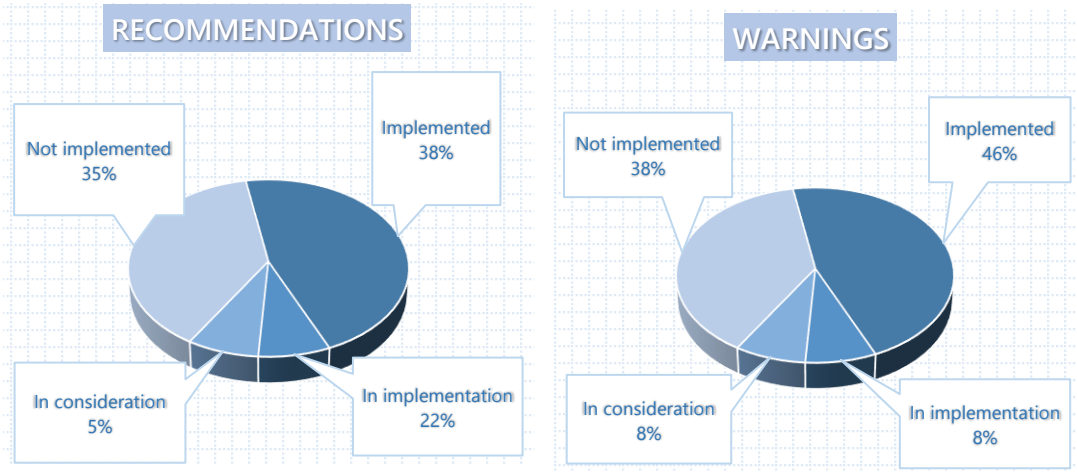
Although positive steps were observed in certain penal institutions (e.g. the Lepoglava and Glina state prisons) in terms of complaints handling, as a rule, complaints were still being addressed in a very superficial manner, without explaining the facts that the decision is based on.

Prisoners are still dissatisfied with executing judges' conduct and state that they issue decisions on the basis of penal institutions' reports only. According to records of the COPSPD, in 2018, only 53 requests for judicial protection were assessed as justified and this may also account for

dissatisfaction. In all cases but one, the subject matter involved the breach of right to accommodation in line with human dignity and health standards. One request dealt with right to access medical records. Judicial protection was granted to 51 prisoners serving their sentence at the Lepoglava State Prison, one prisoner at the Pula County Prison and one at the Varaždin County Prison, respectively. Also, despite their obligations from the EPSA and CPA, relevant judges irregularly visit the prison population.

Implementation of NPM Recommendations and Cooperation with COPSPD and Penal Institutions

During our follow-up visits to the Pula and Karlovac county prisons and Glina and Lepoglava state prisons, we evaluated to what degree our previous warnings and recommendations had been implemented. Of the 16 warnings, five were issued to the COPSPD and 11 to penal institutions. Generally, over half of the recommendations were implemented or are in the process of implementation. As it was the case previous years, warnings that required significant allocation of funds, cooperation among different line institutions or legal amendments were not adopted. Penal institutions adopted 60% of warnings and the COPSPD 55%.



Of the total of 77 recommendations, 17 were issued to the MJ (i.e. to the COPSPD) and 60 to penal institutions. Almost two thirds were adopted or are in the process of implementation, but many of them have not been addressed yet and we highlighted this after the follow-up visits. Some of our recommendations focusing on strengthening the rights of persons deprived of liberty that do not call for significant investments, e.g. drafting a letter of rights of detainees, have not been dealt with and this is definitely a bad thing.

In terms of submission of reports within stipulated deadlines, we can say that our cooperation with the COPSPD and penal institutions is rather good. On the other hand, contrary to the set practice, some reports were very formal. Also, rather than informing the Ombudswoman about the actions taken without delay, these reports question or even deny the findings resulting from the visits (e.g. report of the Zagreb Prison Hospital) and this contravenes the Act on National Preventive

Mechanism for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM).

Of the nine recommendations from the 2017 Report, seven were adopted or are in the process of implementation and this is positive sign, but since these recommendations deal with increased protection of rights and freedoms and prevention of inhuman or degrading treatment, it is crucial to step up their implementation.

Last year, we held a presentation about the authorities of the Ombudswoman on the 32nd basic course for officers of the security department employed in state and county prisons of the Prison System and Probation Directorate. By taking into consideration the importance of continuous training of judicial policemen, the following topics were highlighted: human rights of persons deprived of liberty, Article 3 of the ECHR and ECtHR case law in cases addressing violations of rights of persons deprived of liberty in the prison system. Also, the presentation included recommendations and warnings regarding the work of judicial police, good and bad practice examples and communication skills when dealing with the prison population that may decrease the use of repression.

4.1.3. ASSESSMENT OF THE SITUATION IN THE PRISON SYSTEM

As indicated in detail in our previous reports, systematic problems in terms of prisoners' healthcare provision that may lead to violation of their rights still represented a problem in 2018.

Faced with shortages of physicians, some institutions cannot ensure continuous healthcare and they try to tackle this problem in the short run by concluding temporary service contracts. Eight county and state prisons have employed doctors. One institution engages a doctor who is employed in another penal institution whereas the other 14 rely on temporary service contracts. In that respect, the Lepoglava State Prison may serve as an example: apart from one employed doctor, a continuous engagement of another specialist with a temporary service contract has helped the Prison to cut the number of complaints about waiting time to see a doctor. Also, in 2018, this prison concluded temporary service contracts with a physiatrist and physical rehabilitation therapist. This has also reduced dissatisfaction among prisoners.

The current employment plans in the majority of penal institutions do not include sufficient staff and such situation does not allow for 16-hour availability of healthcare professionals (e.g. three nurses/technicians in the Pula County Prison). This has to be changed. In the meanwhile, by relying on the existing workforce, therapy distribution has to be ensured throughout the week, i.e. by concluding temporary service contracts, paying overtime etc. so as to avoid situations in which it is administered by judicial policemen.

Demand for psychiatric examinations exceeds possibilities to arrange them, which leads to dissatisfaction among prison population. Psychiatric care cannot be provided to all prisoners who need it, so certain conditions have to be met, e.g. additional psychiatrists could be engaged, the number of contracted hours should be increased etc.

Frequently, it takes several days for a prison to get important information about a detainee's medical history (including information about, for example, suicide attempts during detention and subsequent admission to hospital). Sometimes, a prison obtains this information from the judgement only. Poor communication of this sort makes treatment planning and assessment of risk behaviour for prisoners on remand rather difficult and this practice is indeed unacceptable.

Frequently, it takes several days for a prison to get important information about detainee's medical history (including information about, for example, suicide attempts during detention and subsequent admission to hospital). Sometimes, a prison obtains this information from the judgement only. Poor communication of this sort makes treatment planning and assessment of risk behaviour for prisioners on remand rather difficult and this practice is indeed

In our previous annual reports, we have constantly been indicating how necessary it was to legally regulate healthcare services in the prison system. In this context, we welcome the provisions of the new Healthcare Act that came into force on 1 January 2019 stipulating that the Zagreb Prison Hospital fell within the competence of the MJ and that the Hospital had a status of healthcare institution providing healthcare to persons deprived of liberty within the MJ's competence and all of the following services: pharmacy, sanitary epidemiological healthcare and in-patient treatment. The Act also lays down the provisions on healthcare departments at the level of state and county prisons that provide primary healthcare services to persons deprived of liberty in line with a general act adopted by the CHIF with previous approval by the MH. However, it is unacceptable that norms and standards in terms of space, equipment and the staff in the Zagreb Prison Hospital are set by the Justice Minister with previous approval by the Health Minister since the supervision over prisoners' healthcare is performed by the MH). Since these norms and standards have to be adopted no later than six months since its entry into force, we will pay special attention to them in 2019 because they have to be harmonized with the norms and standards regulating in-patient treatment in healthcare institutions for non-prison population to ensure prisoners' rights to healthcare whose quality and scope are regulated in the public healthcare sector for persons with mandatory healthcare insurance.

Not all prisoners are allowed to complete primary education at the level of the entire prison system. Until the problem is systematically resolved, a temporary solution might be considered: to transfer temporarily all the prisoners who want to complete primary education to those penal institutions organizing relevant programmes.

Given that phone calls to family are one of the ways in which a prisoner enjoys his right to contact with the outside world and taking into account prisoners' complaints about their price, matching those prices with market prices could be considered.

Vehicles without seatbelts are still being used for transport of prisoners, a practice that runs counter to the CPT standards on transport of persons deprived of liberty (CPT/Inf(2018)24) and in breach of the Road Safety Act and that directly increases a risk of injury.

One of the most pressing problems in the prison system regards the insufficient number of officials and this directly affects implementation of individual programmes of execution of prison sentence, level of respect of their rights and safety. Reduction in the number of employees in the state administration bodies should not apply to employment in penal institutions. In that respect, the decision on the ban of new employment of state officials in state administration bodies should not apply in these cases.

Accommodation of several prisoners in rooms with no lavatories or with lavatories that are not completely separated from the rest of the room is contrary to the CPT standards and represents a form of degrading treatment. Even though spatial adaptations come at a cost, the fact that they are not in place must not result in inappropriate accommodation of the prison population.

Despite certain improvements, accommodation conditions, whose compliance with legal and international standards, contrary to the COPSPD's letter on implementation of recommendations from the 2017 Report, is assessed by analysing several criteria, not just prison occupancy and the set spatial standard of 4m2, still remain inappropriate. The situation is made more difficult by the fact that many penal institutions are located in old derelict buildings with a status of cultural monuments (e.g. Karlovac and Pula county prisons). A special permit must be obtained by the MC for any potential construction works and the price of works is much higher than market price. Accommodation of several prisoners in rooms with no lavatories or with lavatories that are not completely separated from the rest of the room is contrary to the CPT standards and represents a form of degrading treatment. Even though spatial adaptations come at a cost, the fact that they are not in place must not result in inappropriate accommodation of the prison population.

Inconsistencies still remain a challenge, as we have been pointing out for a number of years now. Lack of clear rules and expected treatment often causes dissatisfaction and feelings of injustice that have negative impact on fulfilling a purpose of serving a sentence. Although positive steps cannot be expected without previous adoption of new EPSA, this Act has not been adopted yet. Also, provisions of the CPA regulating detention procedure have not been amended either. This puts prisoners on remand in a more difficult position compared to prisoners.

Legal protection is still not effective enough. Once again, complaints handling boils down to quotations from regulations only, without explaining the facts that the decision is based on. The

Decision of the Constitutional Court U-III-530/2017 of 2018 showed that this treatment was present not just among heads of penal institutions and the COPSPD, but also courts. The Decision found the breach of right from the Article 25 (1) of the Constitution of the RC in terms of procedure because courts failed to provide sufficient and relevant reasons and they did not protect constitutional right of the applicant to serve prison sentence in the conditions regulated by appropriate standards. The situation will remain unsatisfactory until this is changed and prison population is familiar with their rights and protection mechanisms that they can use without fear of possible repercussions.

Prisons should be a safe place, but this is not the case, given the number of complaints about prison violence. Although prison officials take measures to protect the victim and determine the circumstances of the incident after receiving notifications about alleged violent episodes, it is not sufficient to act in a reactive manner. One must not forget that, in its case law dealing with prison violence, the ECtHR established that member states had a duty, in line with positive obligations from the Article 3 of ECHR, to take appropriate preventive measures to protect physical and psychological integrity and well-being of persons deprived of liberty. In accordance with the ECtHR case law, failure to take these measures represents breach of rights enshrined in the Articles 2 and 3 of the ECHR. Since the state has to protect life and safety of each prisoner and ensure that no one, neither prisoners serving their sentence nor officials or other prisoners, are subject to torture or inhuman or degrading treatment, National Plan against Prison Violence should be developed. The Plan should take into account the recommendations from the CPT's 2018 Report for Croatia (§31).

We think that our cooperation with the COPSPD in 2018 was good, but there is still room for improvement, in particular in terms of implementation of our proposals, recommendations and warnings and submission of complete data. Questioning established facts and recommendations (e.g. regarding diapers put on restrained persons in the Prison Hospital, even though the subsequent CPT's 2018 Report for Croatia pointed to the same problem) does not improve cooperation or result in better respect for the rights of persons deprived of liberty.

Since the state has to protect life and safety of each prisoner and ensure that no one, neither prisoners serving their sentence nor officials or other prisoners, are subject to torture or inhuman or degrading treatment, National Plan against Prison Violence should be developed. The Plan should take into account the recommendations from the CPT's 2018 Report for Croatia (§31).

4.2. THE POLICE SYSTEM

4.2.1. PROTECTION OF CITIZENS' RIGHTS, INCLUDING PERSONS DEPRIVED OF LIBERTY, IN POLICE TREATMENT

Complaints to the Ombudswoman

„After, let's say, two hours, I started complaining about stomach ache because I had been sitting on a chair leaning against my stomach. I was asking them to get me at least a sofa or something and they said the only thing I could get is an ambulance."

n 2018, the Ombudswoman acted in 152 cases regarding police treatment on the basis of citizens' complaints and on her own initiative. The complaints mostly dealt with omissions in the proceeding, unprofessional and unethical treatment of citizens and, as in previous years, a significant number of complaints addressed overstepping of authority in procedures involving the use of force and resulting in deprivation of liberty.

Despite earlier recommendations and warnings that in procedures involving the use of force and resulting in deprivation of liberty, police officers had to pay special attention to protect dignity of the affected person and that they should use force only proportionately and to the degree necessary to put under control persons who acted violently and/or in an agitated manner, the complaints received and investigative procedures that we carried out, clearly show that this was still not the case.

One case in particular stood out – an eight months' pregnant woman was subject to physical force who stated that she was slapped by a police officer, when carrying out the relevant procedure. The MI assessed that the use of instrument of restraint was lawful and justified. The County Police Administrationconcluded that the applicant should have assumed responsibility for her action, stating that she had exposed herself because she had failed to listen to the officers' orders, refused to give her personal data and caused disruption of public order and peace so the officers had been forced to use instrument of restraint and bring her in to the police station to ascertain her identify. On the other hand, in accordance with the Act on Police Tasks and Authorities (APTA), a person shall not be brought in and apprehended if he/she has reduced mobility on account of illness, age or pregnancy or if there is justified assumption that his/her health would thus be undermined. In addition, in accordance with the Ordinance on Conduct of Police Officers, force can be applied on a woman visibly pregnant in a very careful manner and subject to previous consultation with a physician, so the lawfulness of the bringing-in procedure, couple of hours of detention and use of means of restraint is questionable.

Furthermore, even though, in terms of persons with mental disorders, regulations lay down the obligation of special approach and attention, it has been noticed that certain police officers had treated them contrary to these proclaimed principles. For instance, a complaint regarding the overstepping of authority stated that police officers reacted after receiving a call from an old lady claiming that her neighbour was ruining the façade of her house with an axe. While conducting field work, they talked to the applicant who warned them that the man in question was actually a person with mental disorders. Soon enough, they realized that this was true once they found him in the street with an axe in his hand, threatening to kill them. Then, he locked himself inside his house, threatening violence. The situation escalated once he attacked the police officers who had used coercive measures against him: a spray containing irritating substance, physical force and restraint instruments. The proceedings have shown that, even though they knew that the man was a person with mental disorders, police officers acted contrary to the relevant Instruction on Police Treatment when Bringing in a Person with Mental Disorders to a Psychiatric Institution that requires, in case of risk that a person with mental disorders might seriously and directly endanger his/her or someone else's life, health or safety, requesting healthcare staff to come to the scene and take necessary actions.

In that respect, the MI was sent recommendations on the need to consistently apply regulations on treatment of police officers and their further training to treat persons with mental disorders with due attention, by taking into consideration proportionality, graduality and other principles when exercising police authority. Yet, five months later, from the media was visible that our recommendations had not been considered sufficiently, since the same person almost repeated the entire incident, caused explosion and fire in his own house by activating a gas cylinder due to which he sustained severe burns, after which he climbed the roof and inflicted injuries to two policemen with a billhook.

In our earlier reports, we have warned the relevant institutions that police officers had not been educated enough about human rights and performance of police tasks and exercise of authority in terms of treatment of vulnerable groups in particular. Also, we highlighted how important it was to ensure comprehensive training for them. Despite the order of the General Police Directorate on continuous trainings for all police officers in the form of supplementary in-house training and short courses with a special emphasis on treatment of vulnerable groups, it is worrying that these trainings were not organized in 2018.

In addition, we received complaints about abuse during detention in police stations. Even though the ECtHR case law states that a state should provide firm arguments and evidence showing that the alleged abuse did not occur, complaints often raise doubts about treatment of police officers. It was not possible unequivocally determine whether they acted in a lawful and professional manner during detention in police stations and this brings into question the effectiveness of investigation. Installation of video surveillance in all premises of police stations in which persons deprived of liberty were accommodated or located would be an additional protection measure against their abuse, as well as additional protection for police officers in cases of unfounded allegations of physical or psychological ill-treatmant or inhuman treatment.

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Furthermore, by taking into account the ECtHR case law regarding complaints about police violence, apart from internal control, it is necessary to carry out independent investigation by an independent external body. In these cases, the state attorney's office should look into allegations of inhuman treatment rather than base their actions on police documents only. For example, in its decision in the Štitić v. Croatia (2018) case, the ECtHR found that there had been no effective investigation because the state attorney's office and court had not put sufficient efforts and based their actions on the statements given by the police officers. In addition, in the decision in the V.D. v. Croatia (2011), the Court found that there had been no effective investigation since the investigation had been based on police activities and evidence obtained by them, so in line with this Decision, the competent State Attorney's Office repeated the investigation. In its new Decision in the V.D. (no. 2) v. Croatia (2018), the Court found that the new investigation had been independent since it had been conducted by the state attorney's office, i.e., a body hierarchically and institutionally independent from the police, accused by the applicant for violations of his human rights. In that respect, the state attorney's office had carried out the investigations not relying on the data submitted by the police only and had taken investigatory steps that had been appropriate and effective and that could have clarified the situation and determine responsibility.

Another worrying case stood out – an incident next to the village of Donji Srb in which police officers shot a van carrying migrants, causing severe injuries to two children. Significantly enough, the General Police Directorate and Zadar County Police Administration denied the fact that police officers had known that people had been inside the van. On the other hand, quite contrary,a member of a mobile unit for border surveillance and president of the General Trade Union of the MI spoke out publicly saying that the police officers had known that the van had been used for transport of people. In that respect, it remains questionable whether the use of firearms that had caused severe bodily injuries to two children had been justified. Although the CPA concluded that the use of means of restraint had been justified and lawful, in accordance with the APTA, use of firearms shall not be allowed if it endangers lives of other individuals, unless used as means of

defence against attack or elimination of danger. It is therefore of the utmost importance to ensure that, in this case and all the other cases resulting in severe injuries, as an independent body, the state attorney's office carries out effective investigation and looks into the alleged overstepping of police authority.

Another case in point involves a female citizen who turned to ECtHR complaining that the domestic authorities failed to conduct effective investigation of arson in the building she lived in 2005 and threats and harassment that she had been subject in 2010 and 2011, i.e. the general context of these events and their background had not been looked into; rather these events had been treated as isolated incidents (Vojnović v. Croatia, 2018). Regarding the threats and harassment, the ECtHR found that the domestic authorities had not approached the applicant's case effectively and comprehensively, i.e. the police had not questioned several persons whom the applicant considered to be behind the harassment, failed to pursue all the relevant leads which she had brought to their attention and concluded that the domestic authorities failed to understand or investigate the general context of the harassment in an appropriate manner.

Citizens also complain about the problem regarding the filing a criminal charge since, often, police officers refuse to accept them, claiming that the alleged criminal offences are not prosecuted ex officio or that the event does not even have the characteristics of a criminal offence. The justification for this practice, according to the police, lies in the Article 62 (3) of the APTA stating that a police officer is only obliged to receive a complaint for criminal offence subject to prosecution ex officio. Otherwise, a police officer is obliged to warn the applicant that his/her criminal chargeis not founded and, upon the explicit request of the applicant, he/she will register the details of the charge. On the other hand, the CPA states that the chargecan be lodged to the competent state attorney's office and, if lodged to the police, the police will accept it and forward it without delay. After looking into the charge and performing the necessary checks in the State Attorney's Office Information System (IS), the state attorney may reject the criminal charge with the statement of the reasons for rejection, if it stemms from its contents that the alleged offence is not prosecuted ex officio.

It is clear that the provision of the APTA authorizing a police officer to assess the justifiability of lodging a charge and evaluating whether it concerns an offence prosecuted ex officio is contrary to the role that the CPA confers upon the state attorney. As a result, a police officer may prejudge the state attorney's decision whether a charge that concerns an offence prosecuted ex officio is founded or unfounded. The fact that the police officer may accept the criminal charge "upon the explicit request" of the applicant remains problematic because citizens cannot have the certainty that they may lodge a criminal charge to the police because they are unsure of the necessary degree of "explicitness" to have their charge dealt with. In addition, another element remains questionable – the responsibility of a police officer who assessed that an offence prosecuted ex officio had not been committed or who thought that the applicant's request had not been "explicit" enough so he did not register the details of the charge. Back in our 2013 Report we pointed to a case of a female citizen who had complained that police officers refused to address her charge regarding fraud

claiming that the charge had not included any elements of a criminal offence. After we had advised her to contact the competent state attorney's office, her her charge was taken and she was a winning party in the proceedings concluded in 2018. We have registered an increase in the number of similar complaints so it is crucial, in the light of imminent amendments to the CPA, to state in them that only a state attorney may assess whether the charge even if lodged in a police station, concerns an offence prosecuted ex officio, and amend the APTA accordingly.

The Code of Ethics for Police Officers states that, when conducting police tasks, they take measures to ensure that everyone's human rights and fundamental freedoms are guaranteed in an equal manner, irrespective of their other characteristics, and its Annex lists ethical, lawful and professional conduct as values and virtues. In terms of a complaint lodged by a female citizen against a police officer on account of abuse of power since, when making official notes about interviews with witnesses, willingly and on his own initiative, he wrote what they had not said, suggesting that the applicant was a "sick person who needed psychological help", the OSOCC rejected her complaint. On the other hand, the statement of reasons leads us to conclude that, in such cases, a private lawsuit may be filed against the police officer on account of libel. In that sense, we recommended that, when establishing facts and compiling reports, police officers should act in accordance with the APTA, Ordinance on Police Treatment, Code of Ethics for Police Officers, Code of Ethics for Civil Servants and that, when exercising police authority, they respect the dignity, reputation and honour of each individual, by acting in a professional, unbiased and civilized manner and maintain the reputation of civil service and build trust among citizens.

Oversight of police work

The effective system of civic oversight of police work has not been established yet since the relevant Commissions to handle citizens' complaints in the MI, in accordance with the Police Act (PA), had not been formed.

Given the experience with the functioning of the Commission in 2013 and 2014, during e-consultations on amendments to the PA, we have recommended that complete independence and autonomy of the MI is ensured because only this arrangement ensures independent civic oversight of police work. One can expect the Commission members to be independent and unbiased only if they are not MI employees and only if they are appointed and relieved of duty by the Croatian Parliament. Also, this is a precondition to build trust among citizens in terms of the Commission's work. In that sense, the Council for Civic Oversight of the Intelligence Services whose members are not employed in the intelligence sector may serve as a role model. Also, the Commission has to include enough members to deal with the known problems and ensure that cases are addressed in a timely manner.

In order to ensure professional civic oversight of police work, it is necessary to set down conditions in terms of qualifications of the Commission members, stating, for example, that they have to be legal experts, criminologists etc. This practice would also be modelled on the work of the Council for Civic Oversight of the Intelligence Services. The Commission's independence of the MI and high-quality work would be ensured by laying down that the Commission should be established within the Croatian Parliamentary Committee on Human and National Minority Rights, that it should be independent in its work, that its members are entitled to adequate remuneration and that the Croatian Parliament should ensure premises, equipment and administrative support for its work.

The importance of independent and professional civic oversight is highlighted in the MI's procedure when dealing with citizens' complaints about police treatment in line with the Article 156 of the APA on the basis of which the head of the relevant body should issue a decision. However, the police does not address complaints on the basis of the APA but PA only, although it states that other legal remedies may be used, not just those laid down in the PA so, basically, decisions are not being issued. In this way, courts are not given an opportunity to decide about the disputed conduct and this practice runs counter to legal opinion stating that conduct of police officers may be regulated by provisions on the complaint in the APA.

4.2.2. VISITS TO POLICE STATIONS AND POLICE DETENSION UNITS

In line with mandate of preventing torture and other acts of cruel, inhuman, or degrading treatment, in 2018, the NPM visited 20 police stations within the following County Police Administrations: Zadar, Istria, Primorje-Gorski Kotar, Virovitica-Podravina, Bjelovar-Bilogora and Split-Dalmatia Counties and their. Police Detention Units. The majority of the NPM visits were regular. The visits to the Benkovac, Obrovac and Biograd na Moru police stations were follow-up visits whose aim was to establish the level of implementation of the warnings and recommendations issued after the previous visits. Also, the NPM undertook night visits to the Split Police Station and the police detention unit of the Split-Dalmatia County Police Administration.

As a follow up, 64 recommendations and four warnings were issued. Of this, four recommendations regard follow-up visits whereas six recommendations and two warnings resulted from the above-mentioned night visits.

As a part of regular visits, accommodation and transport conditions were inspected, as well as records on persons deprived of liberty and use ofInstrument of restraint. . As previously, accommodation conditions are not completely in line with the prescribed Standards of premises in which persons deprived of liberty are located ("Standards") and the international standards ("CPT standards") that, in accordance with the ECtHR case law, may amount to inhuman and degrading treatment so the General Police Directorate started refurbishing the premises in the majority of police stations.

Regular visits

Accommodation conditions

Most of the police stations do not meet the CPT standards. For instance, some premises in Pazin and Poreč do not have access to daylight or artificial lighting, which means that persons deprived of liberty are exposed to complete darkness. In addition, some premises do not have ventilation systems in place. The dimensions of these premises is inappropriate, so the size of the relevant room in the Poreč Police Station amounts to a bed size so people inside cannot move at all. Good practice examples include the 3rd Rijeka Police Station, as well as Crikvenica, Pitomača and Grubišno Polje police stations that have clean and neat premises with direct ventilation system and access to daylight and artificial lighting. The majority of police stations have rubber mattresses, pillows and bed linen, but in the case of the Buzet Police Station, mattresses are placed on the floor with no bed base whatsoever.

Many police stations lack or have broken alarm systems so persons deprived of liberty have to wave at the camera to communicate with police officers. For example, these systems are not in place in the 1st, 2nd and 3rd Rijeka police stations. In the case of the Umag Police Station, the alarm switch was broken. In line with the CPT standards, lack of alarm systems increases the risk of late reaction in certain incidents during detention.

The standards enshrined in the Ordinance on Reception and Treatment of Arrested Person and Detainee and Records of Detainees in Police Detention Units were partially met. For example, the Police Detention Units of the Primorje-Gorski Kotar County Police Administrations have heating and cooling systems in place, direct access to drinking water and appropriate accommodation conditions, but video surveillance also covers a part of the lavatory and this practice is in breach of the Ordinance because it represents an intrusion of privacy. On the other hand, Police Detention Units of the Istria and Virovitica-Podravina County Police Administrations can serve as examples of good practice because their video surveillance systems do not cover lavatories, yet they allow for complete surveillance of the premises in which persons deprived of liberty move, from the entrance to the building to the prison unit.

The Police Detention Unit of the Bjelovar-Bilogora County police administration includes six rooms, one of which has been adapted to persons with disabilities. The size of all rooms is appropriate and they are equipped with a special switch for drinking water that ensures direct water access.

The majority Police Detention Units do not have premises in which a custody officer receives the detained person. They also lack visiting rooms or rooms in which detained persons can talk to their attorneys. In addition, due to insufficient space, some police detention units use premises in police stations and this makes it impossible for the custody officer to monitor how the arrested and detained person are being treated.

Rights of persons deprived of liberty

During the visits, we found two persons deprived of liberty, one of whom was detained in the Primorje-Gorski Kotar. County Police Administrations. The other arrested person was located in the Bjelovar Police Station. The detainee did not complain about the way police officers had treated him, unlike the arrested person who complained about not being served a meal, although the police officers claimed that he had refused one but this was not recorded in writing. By the same token, the Police Detention Units of the Primorje-Gorski Kotar records only meals that were actually eaten so, in one case, the relevant data for a person deprived of liberty for over 19 hours was missing.

The majority of police stations have designated funds for foods or else provide lunch boxes. A positive example includes a case of providing a copy of the receipt confirming food purchased attached to the report on treatment in a criminal or misdemeanour case. However, Buje, Umag and Labin police stations do not have designated funds for meals, contrary to the CPT standards setting down a rule that food, including at least one complete meal, must be ensured at the right time, so, in line with our recommendation, the General Police Directorate submitted an order to collect advance payment at the cash desk of the police directorate to provide meals to persons deprived of liberty.

During our visits we also inspected the records. Despite our recommendation, in some cases, certain parts of the report on treatment of arrested person had still not been filled in. The same applied to the data on time of release/handing over to the court or other body because the Report on arrest and brining in to the police detention unit is delivered to other competent bodies before the person is handed over so it is rather difficult to record the exact timeline. Even though the template of the Report on arrest and brining in to the police detention unitcovers all types of treatment of arrested person, the columns should be adapted to the course of the entire procedure.

Despite earlier recommendations, records keeping is still not uniform, so some stations keep them in electronic format, others keep written records. For instance, the Pazin police station only keeps electronic records, but the data they contain is insufficient for the NPM to perform its tasks.

Orders about accommodation of a person under the influence of alcohol are regularly filled in. Also, the majority of police stations call a doctor before they detain an intoxicated person.

Contrary to the Ordinance, some police detention units still do not monitor how detainees are being treated. On the other hand, staff at the police detention unit of the Bjelovar-Bilogora County police administration fill in the form for each detainee stating the supervision time, first and last name of the detainee, his/her status and the signature of the police officer in charge and this represents a good practice example.

Night visits

In 2018, we visited the Split police stations and the Police Detention unit of the Split-Dalmatia County twice during the night to evaluate treatment of persons deprived of liberty, especially during large-scale events in the city, such as the ULTRA electronic music festival.

The Police Detention Unit of the Split-Dalmatia County includes seven rooms, two of which are not being used due to inappropriate conditions and lack of video surveillance, however, during our visits, these rooms were not locked, which raised doubts about their potential use for detention purposes. For that reason, the General Police Directorate issued an order to lock them without delay to prevent any possibility of their eventual use.

During the visit of the Police Detention Unit of the Split-Dalmatia County, the detained person had no complaints about police treatment, unlike the arrested persons in the 2nd Split police station who complained about police violence during the arrest and interrogation procedures, but, despite these allegations, they had no visible injuries or remarks in the arrest reports.

In accordance with the ECtHR case law, in case of allegations on police ill-treatment, efficient and effective investigation must be carried out to rule out any possibility of inhuman or degrading treatment so the head of the OCC of the Split-Dalmatia Police Administration was issued an immediate order to look into these allegations. In addition, all police interrogations must be conducted in premises equipped with CCTV cameras as an additional precautionary measure to protect both persons deprived of liberty and police officers in case of unfounded allegations about physical or psychological ill treatmant and inhuman treatment.

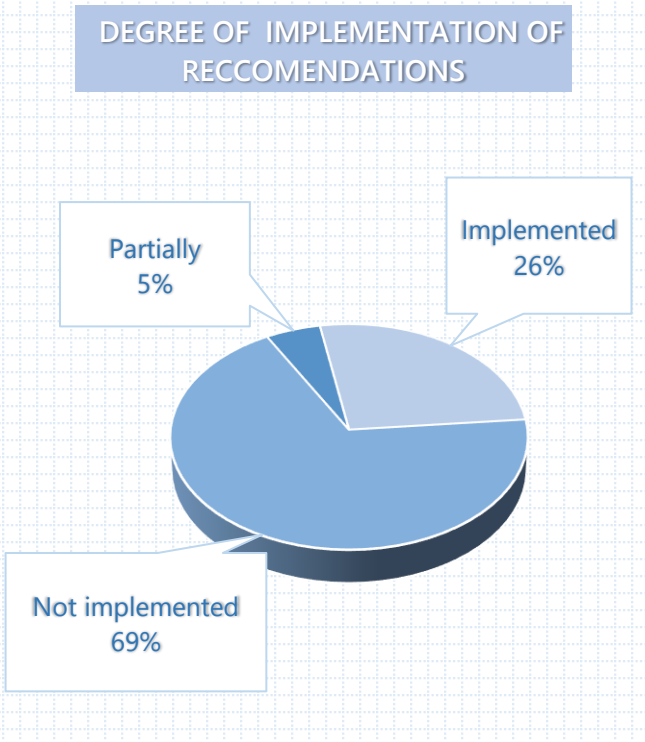
Despite the CPT standards and the Ordinance stipulating that rooms should be equipped with means of rest and that persons detained overnight should be provided with a clean mattress and blankets, the detainees were not provided with mattresses (they were sleeping on wooden mats) so we repeated the recommendation about accommodation conditions and the General Police Directorate issued an order to the PA to purchase a sufficient number of mattresses. The lavatory in the 2nd Split Police Station is still covered by video surveillance, yet, corridors and other premises in which persons deprived of liberty move are not. Contrary to the Standards, rooms in which they are accommodated do not have access to drinking water and the alarm systems are not installed. In breach to the order of the General Police Directorate, the 2nd Split Police Station does not dispose of funds to provide meals during the arrest or accommodation until intoxicants stay in the arrested person/detainee's system. Unlike the police station, the police detention unit ensures a meal and this is recorded in writing. Also, during the detention procedure, a police officer monitors the condition of detained persons and controls their movements by video surveillance.

Follow up visits

In 2018, we visited Benkovac, Obrovac and Biograd na Moru police stations to establish the level of implementation of the warnings and recommendations issued after the regular visits in 2014. We realized that the majority of those previously approved by the MI and General Police Directorate had

not been implemented, mostly due to insufficient funding for equipment of rooms in line with the standards. Yet, during our follow-up visits, we found out that the recommendations that did not call for significant investment, such as installation of alarm switches in the rooms, had not been taken into account either.

Our recommendation regarding privacy had been implemented so the lavatory space inside the rooms was excluded from the video surveillance system and this is a good practice example. Also, the Zadar Police Administration provides advance payment for purchase of food for persons deprived of liberty and the Benkovac Police Station regularly fills in and keeps the necessary documents. The Biograd na Moru Police Station has premises for detention of appropriate size with all the necessary furniture, but they need to have direct ventilation and alarm systems in place. The same applies to video surveillance in all the premises in which persons deprived of liberty move or are located.



Apart from checking the implementation of our recommendations, during the follow-up visit of the Biograd na Moru Police Station, we also checked the records and we realized that, in some cases, the data on medical therapy was missing, whereas the interpreter's signature was missing if the arrested persons were foreign citizens - these were the signs of incomplete filling in procedure and, possibly, violation of rules. In accordance with the CPA, the arrested person is entitled to translation and interpretation and emergency assistance during detention in a police station; in addition, the CPT highlights that a person deprived of liberty should be informed, immediately and in a language they understand, about the right of access to a lawyer, access to a medical doctor and the right to inform a relative or third party of one's choice about the detention measure.

4.2.3. ASSESSMENT OF THE STATUS OF RESPECT OF RIGHTS OF PERSONS DEPRIVED OF LIBERTY IN THE POLICE SYSTEM

Persons deprived of liberty in police stations and police detension units

Generally speaking, accommodation conditions do not meet the necessary standards so the General Police Directorate commenced small-scale works taking into account the available funding, such as installation of alarm switches, placing concrete floors or changing bed mattresses. For example, alarm switches were installed in rooms for accommodation in the police administrations of the Split-Dalmatia and Primorje-Gorski Kotar Counties, as well as the 1st and 3rd Rijeka police stations, Crikvenica, Opatija, Obrovac and Benkovac police stations and several police stations and police detention unit we visited previous years. Large-scale adaptations that require significant investments are planned for 2019.

Bearing in mind that video surveillance covering all the premises in which persons deprived of liberty move or are located should be installed in the majority of police stations, the MI reported that they would continue with the upgrade of the existing and installation of a new video surveillance system. In that respect, 32 CCTV cameras were installed in police administrations and 20 in police stations. In line with the 2018 Plan, procurement procedure was launched and 70 new cameras should thus be purchased in 2019. This will also cover playbacks in OCCs so that custody officers could monitor detainees' behaviour. Also, in order to protect privacy, lavatories within rooms in the Primorje-Gorski Kotar County police administration are no longer covered by video surveillance. According to the MI report, to improve work of custody officers, equipment in the Šibenik-Knin and Istria Counties was refurbished and procurement documents for 2019 for the following police administrations were submitted: Split-Dalmatia, Virovitica-Podravina, Šibenik-Knin, Međimurje, Vukovar-Srijem and Brod-Posavina Counties.

Custody officers still perform the tasks of officials of the operations and communications centre (OCC) and this is not a best solution to the problem. Even though the MI considers that custody officers may work in the OCC in parallel, one might wonder how they can supervise treatment of detained persons when they have to perform other tasks.

Some of the police stations do not have designated funds for foods so the General Police Directorate repeated its order to collect advance payment from the police administrations and submit receipts.

The CPT's 2018 Report for Croatia states that the majority of persons deprived of liberty indicated that they had been treated correctly by police officers; however, there were several allegations of physical ill-treatment by police officers at the time of their arrest and while in detention, consistent with the medical evidence. Bearing in mind that these allegations were made also during the NPM visits, efficient and effective investigation should be carried out in line with the ECtHR case law to rule out any possibility of potential abuse or degrading treatment.

4.3. PERSONS WITH MENTAL DISORDERS WITH RESTRICTED FREEDOM OF MOVEMENT

"I am kept in hospital against my will, an institution dealing with human rights has to be informed about this. Someone has to pick me up, how can you force people to stay inside?! I need help because the doctors are keeping me inside against my will, you have to reach out to me and help me. Actually, the court ruled that I should be released from hospital on 20 May 2018 but the doctors want to force me to stay longer. That's impossible! I need you to get me out of here because I have a right to freedom, no one can treat me against my will and lock me inside. Help me!!!"

"I'm not violent, that's not true, I just fight for justice and I don't get it, I don't know how come I ended up in a psychiatric ward. Once there, they gave me therapy for schizophrenia and told me they had to transport me to another psychiatric hospital because their ward was overcrowded. The judge interrogated me while I was restrained, I think that wasn't okay. Plus, I spent 20 days on the island of Rab (location of a psychiatric hospital) where they told me I wasn't aggressive and that there was no need for staying in hospital any more. I think they shouldn't have restrained me, I think they did it simply because the police brought me in."

In 2018, we received 18 complaints by persons with mental disorders that (as previously) addressed their involuntary detention (?) and placement in psychiatric institutions in accordance with the Act on Protection of Persons with Mental Disorders (APPMD). We visited the Psychiatric Clinic of the Split Clinical Hospital Centre and Lopača Psychiatric Hospital (psychiatric institutions)[16].

Despite earlier recommendations, persons with mental disorders who do not have supplemental health insurance plans are still subject to cost sharing during involuntary placement in psychiatric institutions if their diagnosis is not covered by the CHII List of Diagnoses eligible for funding through mandatory health insurance. In accordance with the Act on Mandatory Health Insurance, CHII fully covers the costs of treatment of chronic psychiatric diseases only so the involuntary patients have to take part in cost sharing; yet, they cannot terminate treatment on their own. In addition, despite the recommendations from the 2016 and 2017 Reports on keepings special records on coercive measures that would allow for assessment of the frequency of their use, these records are still non-existent.

On the basis of complaints and the data collected during the visits, we found out that, during their admission andplacement, persons with mental disorders were not informed enough about all the medical procedures. In accordance with the APPMD, a person is voluntarily placed in a psychiatric

[16] In this chapter, the term "psychiatric institution" shall mean a healthcare institution or its unit for specialist or consultation-based treatment in the area of psychiatry.

institution if he/she is placed with an informed consent that forms an integral part of medical documents. Informed consent means giving approval for a certain medical procedure including admission, detention (? zadržavanje) and placement, as well as diagnostic procedure and treatment. However, in their complaints patients highlighted that they did not know why they were being detained (? zadržavanje) and subsequently kept in those institutions involuntarily andduring our visits, some of them said they had signed consent for voluntary placement to be released as soon as possible because they had been told they would otherwise be kept against their will - these are all signs that, during application of a medical procedure, they had not been appropriately informed about it. On the other hand, persons with mental disorders in psychiatric institutions are not informed about their rights from the Article 14 of the APPMD even though a note on information about these rights during the admission procedure is inserted in their medical documents. This is a stressful situation in someone's life, affecting the person's capability to fully understand and memorize his/her rights and the ways to protect them so they need to be informed about them later on through conversation, leaflet or information on notice board.

Furthermore, complaints showed that persons with mental disorders were dissatisfied with attorneys assigned to them by a judicial authority ex officio. They do not devote enough time to them and they do not represent them in a high-quality manner so they are much more satisfied with attorneys they engage on their own. Since, in its judgement in the Čutura v. Croatia (2019) case, the ECtHR found in particular that passive and ineffective legal representation in procedures involving involuntary placement in hospital violates Article 5 of the ECHR, court-appointed lawyers should be more actively engaged in the process and the Croatian Bar Association should highlight the need of a timely and effective engagement of attorneys when defending the rights of persons with mental disorders.

This type of limitation to freedom of movement of voluntary patients violates Article 27 of the Act on the Protection of Patient Rights setting down that a patient can leave a stationary healthcare institution voluntarily. Doctor-approved leaves should apply only if in patient's interest, due to his/her clinical condition only and if the patient gave his/her consent, as recorded in medical documents.

During our visits, we found no evidence of inhuman treatment, but instances of degrading treatment were observed. The Psychiatric Clinic of the Split Clinical Hospital Centre does not have closed wards for treatment of involuntary patients so all wards, including those where voluntary patients were placed, are locked. Patients can leave the wards only if previously approved by a relevant doctor. This type of limitation to freedom of movement of voluntary patients violates Article 27 of the Act on the Protection of Patient Rights setting down that a patient can leave a stationary healthcare institution voluntarily. Doctor-approved leaves should apply only if in patient's interest, due to his/her clinical condition only and if the patient gave his/her consent, as recorded in medical documents. Otherwise, if a patient disagrees to limitations and if limitations are considered necessary due to his/her clinical condition, assessment of criteria for involuntary placement in hospital or placement without consent should be carried out. The term "voluntary consent" means more than admission

to hospital and covers patient's continuous choice that can subsequently be brought into question by changing this choice or a patient's psychological condition by including new, medical and legal criteria for transfer to involuntary placement or or the one without consent. Quite the opposite, the medical histories we examined, contained no data on voluntary patients' consent to limitation to freedom of movement.

In our previous reports, we emphasised that the lack of space and technical conditions can have a significant impact on frequency of means used to limit freedom of movement and, subsequently, violation of rights of persons with mental disorders, so, in case of patients who need treatment in closed wards, we recommended to MH not to treat them in institutions that do not have these types of wards. Also, we recommended adoption of a special regulation to stipulate conditions in terms of space, staff and medical-technical equipment that all healthcare institutions or their units for specialist or consultation-based treatment in the area of psychiatry where involuntary patients are treated must comply with. These regulations have not been adopted yet so persons with severe mental disorders are still involuntarily placed in open wards.

Use of means of coercion on persons with mental disorders is allowed in exceptional cases only, in cases of extreme urgency if their or other persons' health is endangered, only to the extent and in the manner crucial to put an end to the threat and only if non-coercive measures failed to achieve that end.

Use of coercive measures on persons with mental disorders is allowed in exceptional cases only, in cases of extreme urgency if their or other persons' health is endangered, only to the extent and in the manner crucial to put an end to the threat and only if non-coercive measures failed to achieve that end. In these cases, in line with the Ordinance on Types and Methods of Use Coercive Measures against Persons with Mental Disorders, all patients are entitled to protection from restricted movements or isolation, if unfounded from a medical point of view. Yet, as a rule, patients accompanied by police officers and brought to the Psychiatric Clinic of the Split Clinical Hospital Centre are restrained, sometimes in the course of several days and nights, even when they sleep, to prevent future episodes of aggressive behaviour, justified by shortages of medical staff and alarm systems and switches. In addition, medical documents do not include records on a de-escalation procedure that should have been carried out before resorting to coercive measures, i.e. all the other alternatives were not applied. In line with the ECtHR case law in the Bureš v. Czech Republic (2012), a coercive measure is a serious measure which must always be justified by preventing imminent harm to the patient or the surroundings and must be proportionate to such an aim, so the healthcare staff should be trained in applying de-escalation techniques and treatment of aggressive patients and provisions of the APPMD and Ordinance.

We also observed treatment contrary to the regulations and international standards, as indicated in our earlier reports, so the restraint procedure does not include at least five persons, as set down in the Ordinance. As a rule, persons are restrained in their rooms, with other patients and this practice is risky in terms of safety and may produce feelings of low self esteem and degrade the affected

person. Despite the recommendations from the 2016 and 2017 Reports, special records on coercive measures that would allow for assessment of the frequency of their use were still not kept.

Accommodation conditions in psychiatric institutions we visited were inadequate and contrary to the CPT standards and recommendations, in particular in case of the Lopača Psychiatric Hospital in which, due to the lack of space, after a fire had broken out, patients were placed in old pavilions. Even though some patients were transferred to the psychiatric institutions and new admissions were cancelled, the conditions we observed do not meet those enshrined in the Ordinance on minimum conditions in terms of space, staff and medical-technical equipment necessary to provide healthcare services. For example, rooms do not provide a minimum of privacy to patients, sitting rooms were converted to rooms for accommodation, wardrobes and nightstands are scarce. The number of bathrooms is insufficient. These conditions do not allow for creation of positive therapeutic environment and make treatment and rehabilitation much harder and may amount to degrading treatment. In addition, there were differences among certain wards in the Psychiatric Clinic of the Split Clinical Hospital Centre in terms of accommodation conditions, so the clinical ward of the clinical psychiatry department does not meet the physical and technical standards laid down in the Ordinance.

This leads us to conclude that violation of human rights sometimes result from scarce physical conditions and resources, lack of knowledge about the APPMD and international standards and, at times, due to normative shortcomings. Funding has to be ensured and continuous trainings must be carried out; in particular, appropriate technical conditions for involuntary patients must be provided so that their rights are not unjustifiably curtailed.

4.4. HOMES FOR THE ELDERLY

In 2018, we paid unexpected visits to decentralized homes for the elderly in Rijeka, Beli Manastir and Vis in order to ascertain the level of respect for the human rights of the users, with special attention paid to situations that might constitute limitation of freedom of movement. The visits also focused on two specific issues: health care and nutrition of users. The visits to the homes in Rijeka and Beli Manastir were follow-up visits that aimed to check whether the warnings and recommendations issued during previous visits were implemented. The Home in Rijeka was certainly an example of good practice because numerous changes were implemented since the 2015 visit, which significantly improved the quality of service.

Accommodation applications and contracts are signed by the users, and in some cases by the payers as well, by which the homes complied with the recommendations given during previous visits. Namely, during these visits it was noticed that the accommodation contracts were not signed by the elderly themselves, but by the family members, especially the ones participating in the costs. The consent of the family members cannot replace the consent of the future user, and any case of involuntary accommodation constitutes limitation of freedom of movement without a legal basis.

In general, homes for the elderly provide accommodation services to users suffering from Alzheimer's or dementia, but very rarely report and charge for this service because they do not meet all the requirements for opening specialist wards for accommodating people with dementia, and therefore cannot hire a sufficient number of staff. These users are accommodated together with bedridden or semi-mobile users in the same ward, which is against the Ordinance, according to which people with dementia should be placed in a special accommodation unit with interior that would have a stimulating effect on them.

The lack of staff is still an issue. For example, in Beli Manastir 38% of the nurses and 37% of the caretakers are missing, which makes it difficult to perform everyday tasks. Furthermore, homes for the elderly in general provide accommodation services to users suffering from Alzheimer's or other dementia (middle/moderate stage of disease), but very rarely report and charge for this service because they do not meet all the requirements for opening specialist wards for accommodating people with dementia, and therefore cannot hire a sufficient number of staff. The users with dementia are therefore accommodated in the same ward with immobile or semi-mobile users, which is unacceptable because according to the Ordinance on Minimum Conditions for the Provision of Social Services people with dementia must be provided with one unit accommodating up to 20 users at most, and one bedroom can have up to two beds. It is also necessary to ensure the proper interior design that would have a stimulating effect on them. All this necessarily reflects on the violation of rights of the users, and also makes employees overburdened.

Inadequate accommodation conditions can also impact users' safety. For example, in the Home in Beli Manastir the Stationary Department still has six rooms with four beds on the ground floor, which is not in line with the Ordinance because bedrooms for the users of third level of care can have up to three beds. There is little room between the beds, wheelchair access is difficult, and the users say that when the ambulance arrives this makes ambulance stretcher operation difficult. Although they are equipped with call systems, almost none was functional at the time of the visit. It is of particular concern that bedridden and users with mobility issues were accommodated in the attic rather than on the ground floor, which makes evacuation significantly more difficult.

On the other hand, an example of good practice is the Home in Vis where each floor has warning and emergency exit signs. Emergency call systems (SOS alarms) in the rooms signalise the head nurse's room and show the time of the alarm, user's room and bed number.

Bedridden and users with mobility issues who do not use wheelchair independently, as a rule spend their days in bed, they get up very rarely, and only go out during visits, with the help of family members. One user said that caretakers did not want to put her in a wheelchair because she could not get dressed on her own so she had to ask for help from other mobile users. On the other hand, the employees said that they did not lift the users up because the users did not want it, but during the visit the NPM members did motivate some of them to get up. Therefore all persons, except for those with clear medical contraindications, should be encouraged to get out of bed, which was pointed out to the acting director of the Home in Beli Manastir. Soon after the visit he notified the NPM

representatives that he requested for a plan to be drafted according to which all bedridden and users with mobility issues should be taken out for some fresh air, if their health conditions allowed it, and that the users already spent some time outdoors. None of the users refused it, and they expressed their joy by singing.

Furthermore, it was noticed that the users in the Stacionary Department were served their meals in their room on the bed, although house rules allow them to eat in the dining room, which the majority would gladly do. Following the recommendations, all persons in stationary care in the Home in Beli Manastir are now enabled to eat in the common living room, if they wish to do so. This Home has, after the follow-up visit, implemented most of the recommendations and suggestions in a very short time and it is an example of good collaboration with the institutions we visit.

Based on the insights and analysis of the existing menus, it is obvious that, in most cases, equal diet menus are only used with those users who cannot have standard nutrition, regardless of the health condition in question. The menus should therefore be tailored in line with the doctor's recommendations.

It is furthermore worrying that the users are not provided with physical therapy in line with the Ordinance and regulations regulating the right to physical therapy at home. So, for example, in the Home in Vis, a lady who had broken her hip did not have physical therapy at all. She spent all her days in bed, although she wanted to get out of the bed and go to terrace to get some fresh air, but burdened by their everyday work, the nurses did not have time for that. One user in the Home in Beli Manastir also complained about the lack of physical therapy, because although she had the right to have physical therapy at home five times a week, which is covered by the compulsory health insurance, she did not exercise this right, but had physical therapy with the physical therapist from the Home twice a week. The users to whom the CHIF has granted the right to physical therapy at home have to be able to exercise that right, and the Home should contact a contractual private healthcare professional or institution that provides physical therapy at home.

It is also an unacceptable practice to have employees, for example in the Home in Beli Manastir, bathing two persons at the same time in a common bathroom, without using screens or curtains. Screens or curtains are also not used during the provision of nursing care in shared rooms, and such treatment is humiliating. However, after the warning, the Home has changed such practice.

Homes still have not set up procedures following users' complaints in accordance with the SWA and Ordinance on Social Service Quality Standards, i.e. they do not keep separate records on complaints, actions taken and the resolution of the complaints, which is necessary. Complaints are mainly communicated orally, solved informally and on the spot, and the users are usually informed about the

outcome only orally as well. It is therefore necessary to harmonize the existing internal acts with the SWA and Ordinance on Social Service Quality Standards.

It is furthermore unacceptable that, for example in the Home in Vis, a permanent or temporary residence at the Home address is registered only for those users who are placed in the home by the decision of the SWC, and not for those placed on the basis of a contract, because in accordance with the Residence Act the Homes are obliged to register at the police station the residence of all the persons to whom they provide accommodation services for more than three months.

4.5. APPLICANTS FOR INTERNATIONAL PROTECTION AND IRREGULAR MIGRANTS

"The first time I entered the Republic of Croatia I was pregnant and accompanied by my husband and three underage children. We were walking for 15 – 20 km. Before entering Glina we were stopped by a police vehicle. As soon as the policemen stepped out of the car we asked for asylum and we told them that the children were hungry because they hadn't eaten for two days and had been walking for 10 hours. They told us not to worry, that everything was going to be OK. They took our cell phones, removed the SIM cards and put everything in a plastic bag. After that they called for backup and when it arrived, two cars took us back to the green border with Bosnia and Herzegovina. They left us between two minefields and made us go back to Bosnia and Herzegovina, all the while yelling, dragging and pushing us."

Migrations are a defining factor of our globalizing world, a source of prosperity, innovations and sustainable development. However, in recent years and despite all this, many countries have witnessed the rise of anti-immigration movements, xenophobia and hate speech, as well as strengthening border security measures, whereas protecting human rights of migrants is becoming less important.

Although the 2016 agreement between the EU and TurkeyEU-Turkey statement reduced the number of entries of migrants and applicants for international protection on through the so-called Balkan Route, the route has remained open nonetheless, and migrants still use it to reach the desired destination countries, while the transit countries are trying to stop such movement by strengthening border police capacities. Besides, the EU sought to tackle migration pressure with the permanent quota relocating mechanism, a common list of safe countries, effective return policy for irregular migrants, i.e. the reform of the common European asylum system, as a more adequate response that would prevent secondary movements and provide stronger support to the most affected member states, states of first entry. Although the reform began in 2016 it has not yet been completed because the member states cannot agree, inter alia, on the mechanisms of division of responsibility-sharing and solidarity, inter alia. On the other hand, the existing mechanism of relocation and

transfer resettlement of refugees also proved to be insufficient, and the countries of the so-called Visegrád Group opposed it, which is why the EC launched legal proceedings against the Czech Republic, Hungary and Poland before the European Court of Justice in 2017, which have not yet been completed.

According to the UN data, it is assessed that, since 2017, over 68 million people have been on the move annually due to wars, threats and climate changes. As migration movements cannot be effectively managed only at the national or regional level, the Global Compact for Safe, Orderly and Regular Migration (Marrakech Agreement) was adopted in December 2018. It primarily points to the factors due to which people leave their countries of origin and seeks cooperation between countries, primarily in the region, and then beyond, as well as for flexibility and accessibility of regular migration routes, in order to enable their stay in the destination country in cases when they have to leave the country of origin. Although not legally binding and based on respect for state sovereignty, division of responsibility-sharing, non-discrimination and human rights, it caused disputes controversies among the countries, even some EU members, which did not want to sign it despite the fact that 90% of refugees and other forced migrants in the world remain displaced in their own or neighbouring countries. The Marrakech Agreement explicitly recognizes the role of national human rights institutions, authorized to investigate and monitor complaints about the situations in which migrants are systematically refused or prevented from accessing basic services, etc.

The effectiveness of the investigation on the failure to conduct legal procedures

At the time of reapplication of the Dublin and Eurodac Regulation and aiming to meet the requirements for full Schengen membership as the key strategic objective, the RC decided to reduce the number of migrants and applicants for international protection, increase border police capacity with the aim of stricter state border control, primarily the one with Serbia and then also with Bosnia and Herzegovina. At the same time, the Ombudswoman received complaints about the return of migrants to Serbia and Bosnia and Herzegovina without conducting legal procedures, i.e. initiating the procedures for international protection or issuing measures to ensure the return, accompanied by translation and assessing individual circumstances of the case. Such complaints were followed by the statements in the media and by CSOs.

Especially worrying are the complaints referring to police treatment of migrants apprehended in irregular crossing of the state border or immediately after, which are very similar and usually begin with allegations of crossing the state border, apprehension on the territory by police officers, seeking international protection and ignoring such requests, pushing in the van and even beating, even with batons, taking money and all valuables, destroying cell phones, either by destroying the charging port with a screw driver or by pouring water over it, and returning through the green border, without conducting any legal procedure. However, some of the complaints referred to the treatment in police stations, after which the migrants, even though they had been issued a return decision with a deadline to voluntarily leave the European Economic Area, they were taken to the green border and forcibly returned.

There is also a number of worrying treatments regarding the implementation of return measures, which prevent or significantly hamper the process of applying for international protection. Namely, following the General Police Directorate's order of 15 February 2017, irregular migrants apprehended within the territory are taken to that police station at whose territory they crossed the state border, to define the circumstances of border crossing, previously to the police stations on the border with Serbia, and in 2018 also to the ones with Bosnia and Herzegovina. For example, during the NPM's visit it was found that 594 persons were transported from nine police administrations and 27 police stations to Donji Lapac Police Station in May and June 2018. Also, the same as in previous years, and despite recommendations, the records still do not show whether and which actions were taken, to investigate the circumstances of crossing the state border, which was precisely what the MI emphasized as particularly important. Furthermore, in almost all cases of administrative procedure reviewed during the visit there was no record of the time when irregular migrants were brought in and released from the station, whether they asked for international protection and whether they required medical assistance. In one of the few records that mentioned the time of release from the station, a video record was also reviewed, but this event was not visible at that time, nor immediately before or after. As some persons were transported from remote parts of Croatia, due to the lack of official notes in the record it was not possible to check whether their freedom of movement was limited for more than 24 hours, which is the longest they can be detained in the procedure of issuing the return decision.

Upon completion of the procedure, police stations where the state border has been crossed issue the migrants a return decision with the deadline to leave the EEA within seven days. However, the majority of them cannot do it within the deadline because they do not have identification documents on them and they were returned to a police station/border police station near which there is no public transport, in sparsely populated areas. Additionally, they cannot obtain travel documents or papers because there are no diplomatic or consular missions in the RC. Thus, everything points to the conclusion that the purpose of transporting them to remote and transport-isolated police stations is to remove them from Croatia through the green border. The return decisions issued within such procedure are not recorded in the Register of measures taken towards foreigners, and in order to obtain data on their number and stations from which they were brought one must count individual cases within stations. This makes it difficult to use data on the number of illegal border crossings on a specific part of the state border and subsequent travel routes (which apprehension points might indicate) in monitoring the migration movements through the RC. Therefore, we did not get the data from the MI on the number of migrants to whom such decision was issued, neither for 2018 nor 2017. In addition, the RC did not have an established system of assisted return and only in late 2018 did it sign the Direct Grant Contract for the implementation of the project "Assisted Voluntary Return" with the International Organization for Migration (IOM) within The Asylum, Migration and Integration Fund of the MI. Also, it is not planned to provide the persons in the return process with accommodation, and it is thus difficult for them to fulfil the obligation of leaving the EEA.

Parents of the children injured near Donji Lapac and two other migrants stated that the police officers forcibly dragged them out of the van, beat them and threatened them with firearms. As they started protesting against such treatment, they were, as they claim, beaten with batons and kicked for five to ten minutes until police officers realised that two injured children were in the van. Although they were cold they were not allowed to put on the clothes they had in their bags.

In 2018, there was an instance of using firearms when stopping a van in Donji Srb that was transporting 30 migrants, of which 9 children aged between 3 and 17. Two children were injured in the incident, which we write about in detail in the chapter on police treatment (?). The MI claimed in their statement that nothing suggested that irregular migrants were in the closed part of the van, although the President of the General Union of the MI stated in the media afterwards that at the time of shooting it was known that there were people in the van. This is convincing, given that in this sparsely populated area close to the state border the attention of the increased number of police officers is focused on irregular migrants and traffickers. Following this event, we received complaints from the parents of injured children, as well as from two other migrants whose testimonies were very similar and include allegations about being forcibly taken out of the van right after it was stopped and the driver ran away, after which police officers started hitting them and threatened with firearms as they were on the ground. As they started protesting against such treatment, they were, as they claim, beaten with batons and kicked for five to ten minutes until police officers realised that two injured children were in that van. Although they were cold they were not allowed to put on the clothes they had in their bags. From the documents that the MI provided regarding these complaints it is obvious that no interviews with irregular migrants were conducted and that the investigation into their allegations was based solely on the review of official notes made by police officers and their reports.

In response to other complaints, the MI merely stated that they were inaccurate and missing content, without the data and number of procedures taken to investigate them, often stating that there was the lack of precise data on the time of the events complained about. In doing so the MI, although faced with a number of very serious allegations, did not use technical equipment in eliminating the allegations. They stated that this equipment is used for border surveillance, for example thermal imaging cameras, only to define the place and time of irregular crossings, and recordings are kept only to determine the facts on the places and time of border crossing, as well as for the training of police officers. It is, however, unclear why they are also not used to eliminate the doubt about forceful, and sometimes even violent, conduct of police officers during the returns over the green border.

Also, in the case of the death of little Madina Hussiny, the MI confirmed that the thermal imaging camera recordings were not saved. The Ombudswoman sent all the findings and conclusions made in the course of her investigation to the SAO, in the context of the criminal charges filed by the Hussiny family. Although, according to the media, the decision on the dismissal of the criminal charges was taken, the SAO did not send it to us, despite our request. It thus remains unknown whether when making this decision all the recordings were taken into account, and not only of the mobile thermal vision cameras used for the surveillance of that section of the state border, i.e. the circumstances in which they do not exist. We also do not know whether it took into account the data on the movement and location of police officers by recording signal from their cell phones or other communication devices. We also forwarded the complaint to the SAO, so that he could take action under his jurisdiction, in which we stated that the Ombudswoman could not conduct the investigation as she was denied the direct insight into data, because this prevented her from doing her work, but also because of the suspicion that such conduct prevents a direct, impartial and efficient investigation. It contains, described in a manner similar to the previous ones, information on police treatment of the pregnant woman and her family, with a very detailed description of all the disturbing elements of their journey, date and place of police apprehension, allegations about policemen destroying their cell phones and ignoring their request for international protection, the use of physical force, even about being forced to cross the border between two minefields accompanied by shooting in the air to intimidate them. However, we received no information from the SAO about his decisions on the substance.

The CoE Commissioner for Human Rights and MEPs have requested the RC to conduct an investigation into the alleged collective expulsion of migrants with the use of violence and other criminal offences, where the CoE gives a figure of 2500 migrants in the period between January and October 2018.

Returning migrants to Serbia and Bosnia and Herzegovina without taking into consideration the circumstances of each individual case, and especially disregarding their need for international protection, even when they explicitly ask for it, the use of coercion measures and humiliation of migrants, constitute the violation of their human rights, and can also constitute the violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Articles 4, 18 and 19 (2) of the Charter of Fundamental Rights of the European Union. If such conduct refers to the groups of migrants, the ECtHR also considers it the violations of Article 4 of the Protocol No. 4 along with the ECHR that, the same as the EU Charter in Article 19 prohibits collective expulsion (Čonka v. Belgium, 2002). Precisely the number of return procedures can lead to the qualification "collective", and their systematic and long-term nature additionally confirm that these are not isolated cases. The Council of Europe Commissioner for Human Rights and MEPs have requested the RC to conduct an investigation into the alleged collective expulsion of migrants with the use of violence and other criminal offences, where the Council of Europe gives a figure of 2500 migrants in the period between January and October 2018.

When it comes to conduct that points to the violation of Article 3 of the ECHR, in the case Bojcenko v. Moldavia (2010) the ECtHR has stated that the investigation is imperative, and that it can only be effective if it is carried by a body independent from state officials suspected of using torture or other cruel, inhuman or degrading treatment. Likewise, in the Mađer v. the Republic of Croatia judgement (2011) it stated that it was necessary to conduct an effective official investigation that should identify and punish the responsible ones. Otherwise the general legal ban on torture and inhumane and humiliating treatment and punishment would be ineffective in practice and in some cases the representatives of the state would be enabled to abuse the rights of those under their control without punishment (Labita v. Italy (2010) and Muradova v. Azerbaijan (2009)).

Unlawful withholding of information to the Ombudswoman

During 2018 the MI unlawfully prevented the Ombudswoman from directly accessing the cases and information on treatment of irregular migrants in the MI's Information System, which is also the only source of such information. This happened during visits and investigative procedures pursuant to the Act on the National Preventive Mechanism (NPMA) and Ombudsman Act in Cetingrad, Karlovac, Donji Lapac, Duga Resa, Glina and Gvozd police stations.

The MI unlawfully prevented the Ombudswoman from directly accessing the cases and information on treating irregular migrants , which represents a harsh violation of the Constitution of the RC, OPCAT, the Ombudsman Act and NPM Act.

Withholding concerned exclusively the cases of treatment of irregular migrants, when implementing return measures pursuant to the FA, of applicants in the procedure of expressing intention for international protection. For example, when the NPM was visiting Donji Lapac Police Station in September, the Ombudswoman personally was denied unannounced access to requested data and case files, whereby the deputy chief of the police station, also the only official person she could talk to, said that she was authorized to give one statement only: "Migrant crisis is ongoing and we are proceeding in accordance with the FA and State Border Protection Act". During other visits, the deputy and advisors to the Ombudswoman always had to wait for the "authorized person" (police administration official for illegal migration) to get oral information, access to case files and records of statistical data on, for example, implemented return measures in accordance with the FA, but were not granted insight into the MI's Information System with the records on events, treatment of foreigners and detained apprehended, transported and arrested persons, as well as with the collection of data kept in accordance with Article 204 of the FA. In some cases, not even the Chief of the police station/border police station could give the requested information, or enable access to the administrative procedure case files. In general, they usually had to wait for some time and thus miss the main point of unannounced visits, i.e. the surprise element.

The MI justifies such treatment with the Instruction on the Allocation of Passwords and Response of the IT Department and internal consultations, according to which the employees of the Ombudswoman's Institution, and even the Ombudswoman herself, could not be given direct access

to the Information System, because giving passwords and response to other persons who are not authorized constitutes a serious violation of official duty in accordance with the Police Act.

It is completely unacceptable and unlawful for the MI internal consultations and Instruction on the Allocation of Passwords and Response to constitute the grounds for denying information, since free access to all data on the treatment of persons who are or may be deprived of their liberty, as well as any other information, regardless of their level of confidentiality, by the Ombudswoman and her staff is guaranteed by the Constitution, NPM Act, Ombudsman Act and Data Protection Act.

It is completely unacceptable and unlawful for the internal consultations and Instruction on the Allocation of Passwords and Response to constitute the grounds for denial, and even after the MI was warned multiple times that the RC, having ratified the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), has obliged to enable the NPM, the work of which is performed by the Ombudswoman, unannounced visits to all places where persons deprived of their liberty are kept or who might be deprived of their liberty, as well as access to all information referring to the treatment of such persons, as well as the conditions they are in, and that in accordance with Article 5 of the NPMA, persons performing NPM related tasks shall have free access to all data on the treatment of persons deprived of their liberty. So, precisely OPCAT, NPMA and Act on Protection of Patients' Rights grant the authorization disputed by the MI. Additionally, the DPA guarantees the Ombudswoman the access to classified data within the scope of her activities as well as to other officials and public servants from her office holding a certificate.

Direct data access is of invaluable importance for conducting investigative procedures, as well as for the NPM visits, especially having in mind that the MI already submitted to the Ombudswoman information in the past which turned to be incomplete and/or incorrect which was determined by direct insight into the records of the case, which is something we already reported about. Let us remind, by inspecting individual case files during investigative procedures at a police station, treatment was found that was in contradiction to the MI's previously provided answer, whereas the submitted statistical data on the number of procedures towards irregular migrants showed a significant deviation from the ones determined by a direct insight.

Preventing the Ombudswoman in such a way from performing tasks in line with her mandate constitutes a harsh violation of the Constitution of the RC, OPCAT, DPA, Ombudsman Act and NPMA, about which we notified the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), European Committee for the Prevention of Torture (CPT) and UN Committee Against Torture (CAT).

Additionally, the Ordinance on Accommodation in the Reception Centre for Foreigners was adopted in 2018 which, among other things, regulates the relationship between third-country nationals placed in reception centres on one hand, and the Ombudswoman or attorney on the other. For example,

attorneys cannot visit a person placed in a reception centre unless they have the power of attorney for representation, although they ask for a visit precisely so that a person could sign such power of attorney. A two-day advance notice is insisted upon and the time of visit is defined, which can lead to missing deadlines for filing legal remedies. This violates international standards that guarantee third-country nationals the right to unhindered access to an attorney from the very moment the deprivation of liberty occurs, without limitation and censorship, and can also constitute a violation of Article 6 of the ECHR. Also, the attorney communication and visitation regime for third-country nationals, defined by the Ordinance, is even stricter than the prison one. Namely, the Execution of Prison Sentence Act guarantees unsupervised attorney visits, which can be denied only in case of abuse. On the other hand, third-country nationals' freedom of movement is not limited by the enforcement of a criminal or misdemeanour sanction, but their deprivation of liberty is the last measure of ensuring their forced removal and return. Therefore the limitation of their rights and freedoms in reception centres should be in line with the purpose of deprivation of liberty, and not be even stricter than the one within the prison system. Consequently, this Ordinance jeopardizes the constitutional mandate of an attorney.

It is also unclear whether the restricted access to the representatives of humanitarian and other human rights organizations also refers to the Ombudswoman, i.e. NPM, which is why the MI announced that it will urgently amend the disputed provisions.

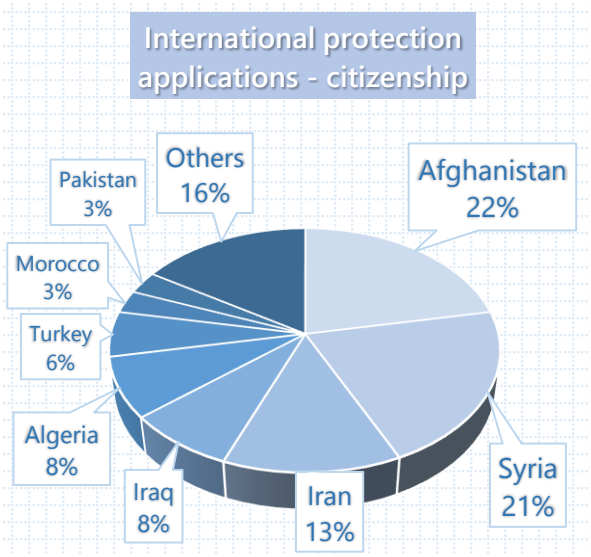
International protection

At the time of strengthening the capacities of border police and increasing state border control measures, increasing number of complaints on disabling the access to international protection and on forced return, the RC has recorded a decrease in the number of applicants by 43.4% in 2018 in relation to 2017, whereas their structure regarding their countries of origin, gender and age remained mainly unchanged. The number of suspensions of procedures for international protection is till high due to migrants leaving the Reception Centres for Asylum Seekers and the RC, and this number, similar as in previous years, amounts to 76.4%. The number of procedures that refer to unaccompanied children seeking international protection is also high because they tend to leave the Reception Centres for Asylum Seekers or institutions for education of children and juveniles, and it amounts to as much as 70.3%, whereas no child seeking international protection was granted one. In 2018, 265 international protection applications were approved, of which 240 asylums and 25 subsidiary protections. Of the total number of the approved ones, 246 were issued by the MI's decision, and 19 by the ruling of the Administrative Court. There has also been an increase in the number of decisions

adopted in an expedited procedure for persons for whom it was possible to apply the safe country of origin concept, so in 2018, decisions for 83 of them were made within two months.

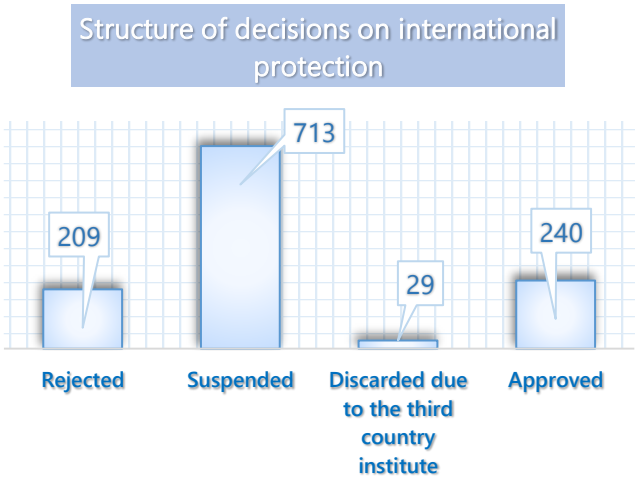
The total number of applicants with a limited freedom of movement accommodated in reception centres for foreigners amounts to 78, and for 15 of them the decision was issued by the MI Administrative and Inspection Affairs Directorate, and for 63 police administration/station, including: 35 decision on the accommodation in Ježevo Reception Centre for Foreigners and 28 for Tovarnik Transit Reception Centre for Foreigners, which does not significantly deviate from the trends of the past years. However, six asylum seekers were issued a measure of independently entering the Reception Centre for Asylum Seekers as an alternative to detention, which happened for the first time, which is certainly an example of good practice.

Also, in 29 cases the application for international protection was rejected due to the implementation of the safe third country concept. This concept was also applied to the family members of the killed girl Madina Hussiny after they were apprehended close to the border with the RC together with another 12-member family, also from Afghanistan, when after multiple attempts and violent returns they managed to apply for international protection. At the time of their apprehension, there was also an CSO volunteer, invited by the members of the family because they did not want to approach police officers on their own, because they were afraid that their request would be rejected again. However, the Misdemeanour Court in Vukovar ruled against him for assisting in illegal border crossing, but this decision is still not final. The submission of this indictment by the MI certainly contributed to increased distrust between the MI and CSO, on which we write more in the section on the role of civil society in the protection and promotion of human rights. All family members, 26 of them, of which 18 children, and even the ones aged three, applied for international protection in the Republic of Croatia and for the purpose of determining their identity their freedom of movement was restricted by a decision and they were placed in Tovarnik Reception Transit Centre for Foreigners.



While conducting the investigative procedure at Vrbanja Police Station, which issued the decision, it was found that the process of restricting the freedom of movement was being conducted in English, which the mother Muslima Hussiny did not understand, whereas the notice of legal aid was issued in accordance with the FA, and not the Act on International and Temporary Protection. Namely, the right to free legal aid when it comes to the limitation of freedom of movement foreseen in the FA differs greatly from the one foreseen by the Act on International and Temporary Protection. For example, the request for free legal aid, after the applicant chooses the provider, is decided upon by

the competent administrative court, and not the MI, whereas the conditions under which it is granted to irregular migrants are stricter. Therefore the MI was warned that the applicant and her children were not provided with access to free legal aid or judicial protection, which is in breach of Article 29 of the Constitution of the RC, Article 5 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 9 of the Directive 2013/33 laying down standards of reception of applicants for international protection. The MI characterized such conduct as a procedural mistake, although the applicants did not receive legal aid on time, so an eight-day deadline for the appeal to administrative court has passed. Additionally, the explanation of the decision that restricted movement to a mother with eight children did not clearly show which procedures were applied during the individual assessment and whether some other measures, which are an alternative to detention, could achieve the same purpose as prescribed by Article 54 (5) of the Act on International and Temporary Protection. Also, according to EU legislation, restriction of the freedom of movement must be the measure of last resort, and only applied after all alternative solutions have been exhausted, unless they cannot be effectively applied (Article 8 (2) of the amended Reception Conditions Directive (2013/33/EU)). Regarding the restriction of the freedom of movement, after the attorney spoke to the ECtHR because was not granted access to her family, a number of temporary measures were adopted which required the family to be granted conditions in accordance with the requirements from Article 3 of the ECHR, which the RC ignored (M.H. et al v. the Republic of Croatia).



Furthermore, the justification for placing these two families in the Tovarnik Reception Transit Centre for Foreigners (RTCF), i.e. to restrict their freedom of movement, was to identify and verify their identity or citizenship, although they all filled out the form no. 6, in which persons without personal documents enter their personal information. Namely, in all administrative procedures in which return decisions are issued with a deadline to leave the EEA, the MI considers that it is sufficient to fill out the form no. 6 in order to determine one's identity. Additionally, the MI thinks that filling out this form suffices in the procedure of issuing a decision regarding independent return, placement in foreigners' reception centre and readmission to the transit country and even states that the foreigner's true identity can be established only after the country of origin issues a travel document, which is often a very long-lasting process with an uncertain outcome. However, in case of these two families, it decided that filling out the form was not enough.

Also, provision of healthcare in the Trilj and Tovarnik RTCF is organized in such a way that emergency medical assistance is called upon in case of need, without a regular visit of medical team of general/family physicians, although the obligation to perform general medical examination is rooted in the Law on Protection of Population against Communicable Diseases. Additionally, none of the

centres employs psychologists, social or healthcare workers, and having in mind that according to the MI's assessment there were 114 vulnerable persons placed in these centres in 2018, of which 78 children, appropriate health and psychological support should be secured, both by filling vacancies and by agreements with CSOs.

In conclusion, a third year in a row was marked by migrants' complaints, and media and CSOs allegations on the expulsion of migrants by using the means of coercion and neglecting their need for international protection. Preventing the Ombudswoman from efficiently implementing preventive activities for the prevention of torture and other cruel, inhuman or degrading treatment of punishment and investigative procedures following the received complaints, paired with the lack of effective investigation, not only raises suspicion about such procedures, but also eliminates any possibility of their prevention. Although the RC was required to investigate allegations of collective expulsion, one gets the impression that, the same as in previous years, instead of insisting on conducting such an investigation, the EU is insisting on strengthening the control of its external borders and introducing additional mechanisms of externalization of the international protection system, whereas the member states cannot agree on fair and joint relocation and allocation of applicants for international protection, and some of them even refuse to participate in solving the migrant and refugee issue due to strengthening of anti-migrant discourse.

4.6. DOMESTIC AND INTERNATIONAL COOPERATION AND CAPACITIES FOR THE PERFORMANCE OF TASKS OF THE NPM

International Cooperation of the NPM and Marking International Days Međunarodna suradnja NPM-a i obilježavanje međunarodnih dana

In 2018 we actively collaborated at the international level by participating in the meetings of the South-East Europe NPM Network, EU NPM Forum, IPCAN Network, etc., at the invitation of partner NPMs or international organizations. We also actively collaborated with the SPT and CPT, and the NPM's work was presented to the European Regional SPT Team in Geneva.

We contributed to the South-East Europe NPM Network meetings in Podgorica regarding the NPM status in the region and alternatives to deprivation of liberty in the context of migration, and at the EU NPM Forum in Ljubljana on the NPM impact assessment. Within the EU NPM Forum, we also participated at a Conference in Trier on monitoring homes for the elderly. We also participated at the International Conference in Tunisia, on the topic of the role of national bodies in the prevention of torture in the context of overcrowding in places of deprivation of liberty. At the invitation of the Kosovo Ombudsman we participated at the Conference in Priština on the prevention of torture of people with mental disorders deprived of liberty, as well as at the regional meeting in Milan, organised by APT and OSCE-ODIHR, on the cooperation in the context of deprivation of freedom of migrants.

Within the IPCAN network, we participated at the meeting dedicated to the security services' treatment of migrants and asylum seekers, and at the invitation of the CoE we participated at the conference in Sarajevo on the role of national human rights institutions in the Western Balkans in the promotion of human rights and prohibition of discrimination, where we presented our view on police treatment of migrants and access to international protection.

At the end of the year, we took over the presidency of ENNHRI's Asylum and Migration Working Group that focuses on the conditions at the border and migrant detention, as well as on anti-migration rhetoric and reducing the scope of activities of national institutions for human rights due to political pressures and lack of cooperation. The Working Group expressed concern regarding the direction the Council of Europe's "Draft European Rules on the Conditions of Administrative Detention of Migrants" is taking, drafted by the Committee of Experts on Administrative Detention of Migrants (CoE's CJ-DAM) to which the Working Group submitted its statement.

Within the activities of celebrating the International Human Rights Day, the Ombudswoman organized a round table at the Faculty of Law in Osijek, titled "Deprived of Freedom, but Not of Human Rights – the Importance of Cooperation in the Protection of Human Rights", dedicated to persons deprived of freedom and the role of the NPM, at which the representatives of the ministries and institutions gave their views on the importance of the NPM.

We also marked the World Mental Health Day, Day of Persons with Mental Health Disorders, as well as the International Day in Support of Victims of Torture, by publishing content on www.ombudsman.hr.

Capacities of the Office of the Ombudswoman for the performance of tasks of the NPM

In 2018, tasks of the NPM were performed by eight advisors, who also acted on the complaints of persons deprived of liberty. For special activity of the NPM, HRK 153,781.00 were allocated within the Office's budget from the state budget for 2018, which is 10.8% more than in 2017, not including the expenses for employees, and the same amount is ensured for 2019 as well.

Recommendations:

Persons deprived of liberty who are in the prison system:

172. To the Ministry of Justice, to adapt accommodation conditions in all penal institutions to comply with legal and international standards;
173. To the Ministry of Justice, to draft a proposal of a new Execution of Prison Sentence Act;

174. To the Ministry of Justice, to draft a proposal of the amendments to the provisions of the Criminal Procedure Act pertaining to execution of remand imprisonment;
175. To the Ministry of Justice, to draft a plan for combating inmate violence;
176. To the Government of the Republic of Croatia, to exclude employment in penal institutions from the Decision on the Ban of New Employment for Civil Servants and Employees in State Administration and Professional Services and Croatian Government Offices.

The police system:

177. To the Ministry of the Interior, to draft a proposal of the amendments to the Police Act, which would ensure an independent and effective civil supervision over police work modelled on the Council for Civilian Oversight of the Security and Intelligence Agencies;
178. To the Ministry of the Interior and General Police Directorate, in accordance with the Criminal Procedure Act, to submit all criminal charges to the State Attorney's Office to assess whether these are criminal charges prosecuted ex officio;
179. To the Ministry of the Interior, to draft a proposal of the amendments to the Police Affairs and Powers Act, which would bring the provision of Article 63 (3) in conformity with Article 206 (1) of the Criminal Procedure Act, according to which the State Attorney's Office decides whether to prosecute a reported case ex officio;
180. To the Ministry of the Interior and General Police Directorate, in accordance with the Police Affairs and Powers Act, to treat vulnerable groups with special consideration and to use police powers that are least likely to affect human rights;
181. To the Ministry of the Interior, to use means of restraint only proportionately and when necessary in order to bring violent persons under control;
182. To the General Police Directorate, to use firearms only when they do not threaten the lives of other persons, unless it is the only means of defence from an attack or eliminating the threat;
183. To the State Attorney's Office, to conduct an effective and independent investigation ex officio when there are allegations of potential overstepping of police powers, particularly when these result in severe physical injuries after the use of firearms by police officers;
184. To the Ministry of the Interior and General Police Directorate, to adapt accommodation conditions in facilities for persons deprived of liberty to comply with legal and international standards;
185. To the Ministry of the Interior and General Police Directorate, to establish video surveillance in all premises where persons deprived of liberty are placed, which needs to be accessible to detention supervisors in operation and communication centres;
186. To the General Police Directorate, to ensure funds for meals for persons deprived of liberty and to record whether the person accepted or refused food;
187. To the Ministry of the Interior and General Police Directorate, to thorough investigate all allegations of inhuman and degrading treatment towards persons deprived of liberty, as well as in cases of suspicion of unfounded or excessive use of means of restraint..

Persons with mental disorders with limited freedom of movement:

188. To the Ministry of Health, to adapt accommodation conditions in all psychiatric institutions to comply with legal and international standards;
189. To the Ministry of Health, to systematically organize trainings for healthcare workers on the rights of persons with mental disorders and on the use of coercive measures;
190. To the Croatian Bar Association, to point to the attorneys appointed ex officio to the need for timely and effective engagement in the protection of the rights of persons with mental disorders;
191. To the Ministry of Health and the Ministry of Justice, to draft legislation amendments to ensure that the costs of involuntary detention and involuntary institutionalization in a psychiatric institution are paid from the State Budget;
192. To the Ministry of Health and the Ministry of Justice, for all psychiatric departments to keep records on the use of coercion measures.

Homes for the elderly:

193. To the Ministry of Demographics, Family, Youth and Social Policy, to make an analysis of accommodation conditions in stationary departments of the homes for the elderly;
194. To the counties, and the City of Zagreb, to bring the accommodation conditions in stationary departments of all decentralised homes in conformity with the Ordinance on Minimum Conditions for the Provision of Social Services;
195. To the counties, and the City of Zagreb, in cooperation with the Ministry of Demography, Family, Youth and Social Policy, to conduct an analysis of staffing for all decentralised homes and fill the vacancies if needed;
196. To the counties, and the City of Zagreb, to harmonise internal acts with the Social Welfare Act and Ordinance on Minimum Conditions for the Provision of Social Services, especially regarding procedures of examining complaints.

Applicants for international protection and irregular migrants:

197. To the Ministry of the Interior, to enable access to international protection to all migrants apprehended within the territory of the Republic of Croatia;
198. To the Ministry of the Interior, to ensure that migrants are fully informed on their rights in a language they understand when issuing a return decision;
199. To the Ministry of the Interior, to have in mind the principles laid down by the Foreigners Act and Administrative Procedure Act in the return procedures;
200. To the State Attorney's Office, to conduct an effective investigation into allegations on collective expulsion of migrants;
201. To the Ministry of the Interior, to harmonise the Ordinance on Stay in the Reception Centre for Foreigners with the Constitution and laws of the Republic of Croatia.

5. COOPERATION AND PUBLIC ACTIVITIES AIMED AT HUMAN RIGHTS PROMOTION AND COMBATING DISCRIMINATION

5.1. WHISTLEBLOWER PROTECTION ACT

The Whistleblower Protection Act was drafted in 2018 and will enter into force on 1 July 2019. This Act has expanded the mandate of the Ombudsman's institution designated as the competent body for external reporting of irregularities. However, despite Article 18 (2) of the Ombudsman Act, which stipulates that the Ombudsman participates in the process of drafting regulations within his/her scope of activities, we were included in the process of drafting this Act very late in the process, only in June 2018, at the fifth meeting of the Working Group, after excluding the possibility for a new, or some other body, closer to the protection of whistleblowers by its scope, to take over this role.

It is however important to note that, in the process of the adoption of the Act, many of our proposals have been adopted to provide a more effective protection to whistleblowers, as well as to remove legal uncertainties in interpreting certain legal provisions, which we welcome. Still, numerous proposals were unjustifiably rejected, such as the expansion of the definition of the employer to strengthen the internal reporting channel, giving preference to the unburdening of entrepreneurs over a more efficient fight against corruption.

In accordance with the Act, the Ombudswoman will take actions within her jurisdiction for the protection of the rights of whistleblowers who are or could become victims of harmful actions for reporting irregularities. The Ombudswoman will not investigate into irregularities, but will forward such reports to the bodies authorized to act according to the content of the report.

Besides, the Final Bill does not provide additional funds for its implementation: the funds are planned exclusively and only for training and promotion of the Act, but not for employing people who would work on the implementation of the Act. Namely, the existing staff is not sufficient for the implementation of the activities related to the promotion of the Act, let alone for carrying out other tasks from the mandate defined in Article 21 of the Act. If the existing employees are going to be reassigned and take over tasks from the new mandate, this could significantly weaken the activity in the existing mandates, slow down investigative procedures and reduce the efficiency and quality of performance.

In December 2018, the Council of Europe Commissioner for Human Rights Dunja Mijatović warned that the expansion of the mandate of independent human rights institutions, without ensuring additional funds for work, could also be seen as the pressure of the authorities on the independence

of these institutions. Also, the ECRI's General Policy Recommendation No. 2 on the establishment and operation of equality bodies has to be accompanied by adequate additional funds, which is also recognized in the EC Recommendation on standards for equality bodies from June 2018, the objective of which is to ensure independence and efficiency of these institutions.

Recommendations:

202. To the ministries, to include the Ombudswoman in the procedures of drafting regulations from her scope of activities at the beginning of the drafting process;
203. To the Government of the Republic of Croatia, to ensure additional funds for the implementation of the Whistleblower Protection Act.

5.2. THE ROLE OF CIVIL SOCIETY IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

The importance of civil society in protecting and promoting human rights and building democracy has also been demonstrated by the latest data from 2018 Eurobarometer survey on Democracy and Elections. In the EU, 76% of the respondents believe that civil society plays an important role in promoting and protecting democracy and fundamental values, including encouraging an informed and pluralistic democratic debate. However, the FRA Report shows that it is becoming increasingly difficult for CSOs to fulfil their role and contribute to the protection, promotion and fulfilment of human rights within the EU. Likewise, the CoE is repeatedly underlining the importance of civil society. Hence, in November 2018, the Committee of Ministers adopted the Recommendation CM/Rec(2018)11 on the need to strengthen the protection and promotion of civil society space in Europe, which, inter alia, recommends member states to provide a legal framework and an enabling environment for the protection and promotion of space for civil society. The UN Declaration on Human Rights Defenders, marking its 20th anniversary in 2018, underlines that states are obliged to provide a safe and enabling environment for the work of human rights defenders, including CSOs involved in protecting human rights and combating discrimination.

Although public consultation on the Draft of the National Strategy for the Creation of Enabling Environment for Civil Society Development 2017-2021 ended in September 2017, it was still not adopted in 2018. The justification stating that the delay in the drafting of the Final Proposal was due to the fact that not all competent authorities had submitted their comments on the Draft even after four calls from the Government Office for Cooperation with CSOs, shows, inter alia, to what extent the state administration bodies recognize and value the importance and contribution of civil society to the development of the RC.

Over the past few years, CSOs involved in protecting human rights and combating discrimination have been suggesting that advocacy of human rights of marginalized or vulnerable social groups, such as refugees and asylum seekers, members of national minorities or victims of domestic or

gender-based violence, has been frequently discredited in part of the public domain and displayed as contrary to social values, national interests and religious beliefs of the majority.

In line with the UN Declaration on Human Rights Defenders, states are obliged to take all necessary measures to ensure their protection against violence, threats, retaliation and the pressures resulting from their work. In recent years, the UN Special Rapporteur on the situation of human rights defenders has been alerting to a tendency of criminalizing and preventing the work of those who seek to protect and promote the rights of migrants, and who are also facing accusations of human smuggling and trafficking. In the RC, too, CSOs involved in the protection of migrant rights pointed to pressures from the MI in their work in 2018, and the Minister of the Interior accused the representatives of CSOs Centre for Peace Studies and Are You Syrious that they had "given telephone numbers, maps, money and instructions on how to enter the RC and who to contact after entering, and offered and given names and phone numbers of their volunteers" to migrants, accusing them of human smuggling and trafficking. In their complaints, CSOs also point to pressures on their volunteers, such as retention at police stations when accompanying migrants seeking international protection, including unpleasant and unprofessional comments by police officers about the organizations they work in. When, in April 2018, CPS and AYS announced a press conference on police pressure and intimidation, their activists were called in for questioning at the exact time the conference was announced, which is a direct pressure on their work and an attempt to limit their freedom of expression. In September 2018, after 20 years of cooperation with the MI in the field of migrant integration, the Agreement on Mutual Cooperation was not renewed for CPS and they were denied access to reception centres for asylum seekers in Kutina and Zagreb. The same happened somewhat later to AYS as well, and these are the organizations that are most vocal in alerting to the violations of migrant rights by the police. Since eight CSOs operate in the reception centres under the agreement, the MI noted that, for the conclusion of a cooperation agreement, priority is given to the activities that need to be additionally implemented. However, the criteria according to which the organizations are chosen are not clear, since several of them provide the same or similar activities. All this contributes to the creation of a negative image of CSOs and their work, so it is not surprising that over the year some of them have faced destruction of property, insults and threats, including death threats on social networks. In addition, following the charges brought by the MI, the Misdemeanour Court in Vukovar preliminary ruled against an AYS volunteer for assisting in illegal crossing of the state border.

In line with the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders, it is important to enable CSOs access to financial resources. Even though the RC provides funding for their projects and programs, they point out that funding programs are not tailored to real social needs, stressing that there are almost no calls for proposals aimed at advocating and monitoring human rights policy, and it is precisely by pointing to the shortcomings in law enforcement that the CSOs have the opportunity to give the voice to the most vulnerable ones – the elderly, the minorities, the children.

In 2018, marking the 15th anniversary of their activity, the National Foundation for Civil Society Development organized a consultation with over 400 CSO representatives at the regional level, which, among other things, also focused on funding and program areas that should be covered by the calls for proposals. However, the results of this consultation have not been published yet. After a decrease in 2016, there is encouraging data showing that the percentage of the part of the revenue from games of chance in the Ordinance on the Method of Allocation of Revenues from Games of Chance in 2019 allocated to those contributing to the development of civil society remained the same as in 2018 (11.64%), but it is still not at the 2015 level, when it amounted to 14.21%. CSOs warn that government bodies are late with launching calls for proposals, but also with announcing the results of the calls with regard to the deadline set out in the instructions to applicants on one hand, while on the other hand, project implementation is administratively demanding, and sometimes the intermediate bodies, such as the National Foundation, miss their own deadlines for the payment of project funds. All this hinders the work of CSOs, especially since there is no long-term institutional and programmatic funding, which is an important presumption for creating an environment in which they contribute to social changes. It is therefore important to identify this problem in the process of drafting a new National Program for the Protection and Promotion of Human Rights and to define concrete measures and stakeholders for its resolution. At the same time, although the Government's opinion on the 2017 Report stated that coordinating activities related to the implementation of the new National Program would be strengthened through projects funded by the ESF and through the work of the Human Rights Commission, the Program has not yet been drafted, so it is difficult to foresee what kinds of projects will be implemented and when. However, the Human Rights Commission has still not been established in 2018, and the Working Group for the drafting of the National Program for the Protection and Promotion of Human Rights, with the Office of the Ombudswoman as a member and a representative, established in July 2018, has not met once.

Participation of citizens and CSOs in the process of adopting public policies and laws contributes to the democratic legitimacy of decisions made by the public and state institutions, thus ensuring citizen participation in the political life of the community. Preliminary data from e-Consultation of the Government Office for Cooperation with CSOs show that 38% more consultations were initiated in 2018 than in 2017, namely 977 of them. Citizens and CSOs still show interest in the consultations, thus 4,634 natural or legal persons participated in them, of which 312 CSOs. Likewise, in 2018, a large number of comments was received, namely 22,376, of which 3,128 were submitted by CSOs. However, as was the case in previous years, as many as 81% of the comments were rejected, duly noted or not answered at all. Moreover, according to the Report on the conducted consultations with the interested public in procedures of adopting laws, other regulations and acts in 2017, adopted in March 2018, a part of the consultations continues to be conducted within a period shorter than 30 days, regardless of the Access to Information Act. Therefore, the perception that consultations are only formal, and not a continuous dialogue between various stakeholders in public policy processes is not surprising, and it does not contribute to building trust in an open, responsible and effective state administration work.

Pursuant to the Access to Information Act and Code of Practice on Consultation with the interested public in the process of adopting laws, other regulations and policies, municipalities, cities and counties are also obliged to conduct public consultations. Knin is an example of good practice, where the Council of CSOs has been established to improve communication between CSOs and citizens with city administration, which regularly participates as an observer in City Council sessions. It is important to promote such and similar examples of cooperation with CSOs in other LRGUs as well.

As in previous years, the primary method of consultation are online consultations. Therefore, we would like to stress once again that it is essential that state administration bodies, LRGUs and legal entities with public authorities also use other ways of consultation because e-services are not equally accessible in all parts of the RC, nor to all groups of citizens.

Recommendations:

204. To the Government of the RC, to adopt a new National Strategy for the Creation of an Enabling Environment for Civil Society Development;
205. To the Government of the RC, to adopt a new National Programme of Protection and Promotion of Human Rights;
206. To the Government of the RC, to ensure long-term institutional and programmatic funding of CSOs for the protection and promotion of human rights;
207. To the Government of the RC, to establish the Human Rights Commission.

5.3. COOPERATION WITH STAKEHOLDERS

In 2018, we continued cooperation with various stakeholders, as an important segment of our work. We cooperated with numerous state administration bodies, independent bodies and international organizations, and especially with the LRGUs, councils and representatives of national minorities, CSOs, local action groups, as well as with other stakeholders active in the protection and advocacy of human rights and combating discrimination. We also continued close cooperation with special ombudswomen as partner institutions within the framework of human rights protection and combating discrimination. Likewise, the Ombudswoman's Council for Human Rights continued with its work.

We organized several trainings for civil servants, representatives of local and regional authorities, judges, trade unions and CSOs. In 2018, we also conducted educational programs in nine high schools in Zagreb, Rijeka and Osijek, with the aim of introducing students to the work, competencies and role of the Ombudswoman in the protection and promotion of human rights, basic concepts and current topics related to human rights and discrimination. We participated in and organized numerous conferences, at which we presented the work of the Office and substantially contributed to their conclusions. Information thereon is available at www.ombudsman.hr.

The Ombudswoman's Council for Human Rights

Since the mandate of seven members expired at the end of 2017, new members of the Council for Human Rights were elected in 2018, for a period of four years, including one representative from civil society and two representatives from national minorities, the academia and the media. The members were elected on the basis of an open call, and thus the new Council composition includes Tvrtko Barun from the Jesuit Refugee Service of South Eastern Europe, Sanja Barić from the Faculty of Law in Rijeka, Gordana Vilović from the Faculty of Political Science in Zagreb, Ema Tarabochia from the Croatian Journalists' Association, Barbara Vid from the Croatian National Television, Antonija Petričušić as a representative of the Serb National Council, Milan Mitrović from the Council of the Roma National Minority of Slavonski Brod, along with Ivan Novosel from the Human Rights House. In 2018, the Council convened twice, in line with the Ombudswoman's Rules. The first meeting was held in June 2018, at which the members familiarised themselves in detail with the authorities of the institution and the previous practices, as well as with the possibilities of cooperation between the institution, the Council and individual members. The second meeting was held in November 2018, at which we exchanged information on activities, possible projects and plans in the upcoming period.

Collaboration with Special Ombudswomen

In 2018 as well, collaboration with special ombudswomen encompassed both teamwork on different individual cases and the process of forwarding complaints, pursuant to their respective competences. We forwarded 179 complaints to them and several joint meetings were held to discuss current issues of protection and promotion of human rights, actions regarding complaints and collaboration in specific areas.

Collaboration with Civil Society Organizations

In March 2018, the Ombudswoman signed cooperation agreements with the members of Anti-Discrimination Contact Points Network. The Network is composed of 11 CSOs selected through an open call, aimed at strengthening the fight against discrimination at the national, regional and local level.

The following organizations are part of the Anti-Discrimination Contact Points Network: B.a.B.e., Centre for Civic Initiatives Poreč, Centre for Peace, Non-violence and Human Rights Osijek, Centre for Peace Studies, Contemporary Jewish Film Festival Zagreb, Association for Human Rights and Civic Participation PaRiter from Rijeka, Information Legal Centre from Slavonski Brod, Civic Rights Project Sisak, SOS Rijeka – Centre for Non-violence and Human Rights in Rijeka, Serb National Council – National Coordination of the Serb National Minority Councils in Croatia and CSO Status M. This is a continuation of an intensified cooperation with five CSOs, which have operated as regional anti-discrimination contact points since 2012, further expanded in this way.

We had a close and high-quality cooperation with numerous other CSOs, especially in the areas of protection of the rights of the older persons, the youth, homeless people, veterans, migrants, access to legal aid, support to victims and witnesses, rights of national minorities, environmental protection

and many others. We also consulted numerous CSOs active in combating discrimination and human rights protection during the preparation of this Report, in which we included the information received.

5.4. INTERNATIONAL COOPERATION

This year marked the 25th anniversary of the adoption of UN General Assembly Resolution 48/134 on national institutions for the promotion and protection of human rights, which encourages states to establish and strengthen national human rights institutions. The Resolution also includes the Paris Principles prescribing a set of very strict criteria that an institution needs to fulfil in order to gain the status of an independent national institution. By the end of 2018, 28 European National Human Rights Institutions accredited by the Global Alliance of National Human Rights Institutions (GANHRI) were granted status A or were fully compliant with the Paris Principles, while 11 institutions hold status B, meaning they are partially compliant. Since 2008, the Ombudsman has been accredited as an independent institution for the protection of human rights holding status A. The process of re-accreditation began in November 2018.

Regional organizations as well, such as the CoE, with the RC presiding over the Committee of Ministers in the second half of 2018, have actively stimulated and supported the establishment of national human rights institutions. Thus, in November 2018 the Committee of Ministers adopted the Recommendation CM/Rec(2018)11 on the need to strengthen the protection and promotion of civil society space in Europe, which, among other things, recognizes the role of national institutions in creating an enabling environment for human rights and in dealing with threats they face in their work.

The Ombudsman is a multi-mandate institution, so under the Anti-Discrimination Act it is also the central equality body. The ECRI General Policy Recommendation No. 2 on the establishment and work of equality bodies was presented at the beginning of 2018. The Recommendation recognizes the importance of their work and gives clear guidelines on how the member states of the CoE can strengthen them. In June 2018, the EC adopted the Recommendation on Standards for Equality Bodies, which aims to ensure the independence and efficiency of these institutions and sets minimum standards for their mandate, their independence and efficiency, including appropriate resources and powers.

In order for independent human rights institutions to fulfil all their tasks, it is important to maintain multilateral cooperation with the bodies of the UN, EU and CoE, and in particular within the scope of special networks, namely: ENNHRI, GANHRI, EQUINET and IOI, which we continued to do in 2018.

In 2018, we continued to chair the European Network of Independent Human Rights Institutions, chaired by the Ombudswoman Lora Vidović and the European Network of Equality Bodies, chaired by Deputy Ombudswoman Tena Šimonović Einwalter. The chairmanship of the networks, in close

cooperation with key stakeholders, such as the UN High Commissioner for Human Rights, the Human Rights Commissioner of the CoE or FRA, gave us the opportunity to present a number of good practices from the RC. Representatives of the Office actively participated in ENNHRI working groups on legal issues, economic and social rights, sustainable development goals, communication, business and human rights. In November 2018, Deputy Ombudswoman Maja Kević was elected to chair the ENNHRI Asylum and Migration Working Group. Furthermore, representatives of the Office continued to participate in the EQUINET working groups on the right to equality, policy making and communication, in conferences, seminars and annual assemblies of both networks, and were regularly involved in research projects and the development of EQUINET and ENNHRI publications.

Thus, the Ombudswoman participated in a high-level international conference on improving human rights communication held in Geneva in March 2018. Along with discussing the trends of human rights perception among the general public and the problems and good practices, the conference also resulted in a joint statement by the UN High Commissioner for Human Rights, the CoE Human Rights Commissioner, FRA, ENNHRI and GANHRI. The joint statement underlines that, with the adoption of the Universal Declaration of Human Rights 70 years ago, governments around the globe committed to making peace, democracy and justice a reality for all. However, despite some progress, many people still live in poverty, inequality and discrimination, exposed to armed conflicts. Better laws and public policies are necessary to reach improvements, along with a clear understanding of human rights by the citizens. For this reason, the signatories, inter alia, committed to jointly work to promote the values of human rights around the globe.

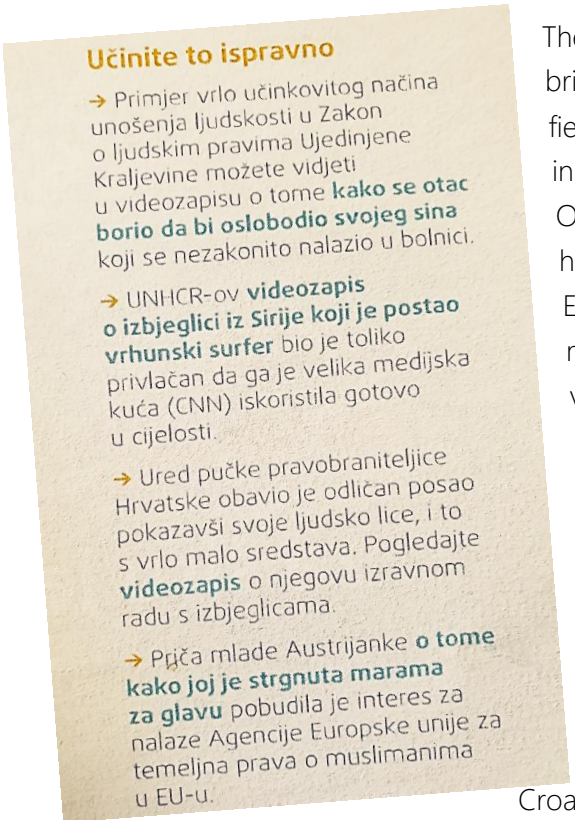
In April 2018, UNDP organized Istanbul Development Dialogues, a global forum that brings together policy-makers, business stakeholders and diverse experts with the aim to discuss the comprehensive UN Sustainable Development Goals. In the panel dedicated to Goal 16 (peace, justice and strong institutions), the Ombudswoman emphasized that the protection against human rights violations, including the establishment of a strong protection framework, is key to maintaining peace and preventing conflict.

In May, a Representative of the Office participated in a workshop in Spain organized by the International Ombudsman Institute (IOI) on "Good Environmental Governance", where she presented the work of the Ombudswoman in the field of environmental rights protection.

The High-level Political Forum on Sustainable Development (HLPF) was held in the UN Headquarters in July 2018. HLPF is a UN platform designed to monitor the 2030 Agenda for Sustainable Development and to meet the Sustainable Development Goals. The Ombudswoman participated in the debate on the impact of austerity measures designed to alleviate the consequences of the economic crisis on sustainable development and human rights, emphasizing that national institutions monitor and report on the human rights situation, advise government bodies and promote the culture of human rights. They make an important contribution to meeting Sustainable Development

Goals by gathering relevant data and promoting a human rights-based approach, which is key to implementing the 2030 Agenda for Sustainable Development.

The topics of the 9th working session of the UN Working Group on Ageing (OEWG) were the autonomy and independence of older persons, palliative care and long-term institutional care. The Ombudswoman stressed that limiting older persons' autonomy jeopardizes a whole range of their rights: right to life, security, privacy, prohibition of torture, freedom from violence and abuse, freedom of expression and access to information. She also pointed to the importance of preparing and adopting the Convention on the Rights of Older Persons because international regulations and standards do not adequately address age-related challenges nor guarantee the right to long-term institutional and palliative care. There is a noticeable gap between the existing legal framework and everyday experiences of older persons, and this is exactly the contribution that national human rights institutions will continue to make in the work of the OEWG.



Učinite to ispravno

→ Primjer vrlo učinkovitog načina unošenja ljudskosti u Zakon o ljudskim pravima Ujedinjene Kraljevine možete vidjeti u videozapisu o tome **kako se otac borio da bi oslobodio svojeg sina** koji se nezakonito nalazio u bolnici.

→ UNHCR-ov **videozapis o izbjeglici iz Sirije koji je postao vrhunski surfer** bio je toliko privlačan da ga je velika medijska kuća (CNN) iskoristila gotovo u cijelosti.

→ Ured pučke pravobraniteljice Hrvatske obavio je odličan posao pokazavši svoje ljudsko lice, i to s vrlo malo sredstava. Pogledajte **videozapis** o njegovu izravnom radu s izbjeglicama.

→ Priča mlade Austrijanke **o tome kako joj je strgnuta marama za glavu** pobudila je interes za nalaze Agencije Europske unije za temeljna prava o muslimanima u EU-u.

The Fundamental Rights Forum took place again in 2018, bringing together 700 experts, artists and CSOs in the field of human rights and representatives of European institutions and international organizations. The Ombudswoman and ENNHRI Chair Lora Vidović and her Deputy and EQUINET Chair Tena Šimonovic Einwalter spoke on a panel about the most vulnerable members of society, those who are most commonly voiceless. They stressed the importance of being present among citizens and that their visibility and accessibility is key to providing support to victims of human rights violations and discrimination. The publication entitled "10 keys to effectively communicating human rights" was also presented at the Forum. It included the 2015 video made by the Office of the Ombudswoman on the Office's activities during the large migrant movements in Croatia in 2015 as one of the examples of good practice.

The EC dedicated its annual colloquium to the democracy in the EU, in which the Deputy Ombudswoman and EQUINET Chair actively participated. Among other things, the colloquium participants discussed how to renew democratic engagement within the EU and the European societies. This debate was timely also in the context of the upcoming European elections and on the occasion of the seventieth anniversary of the Universal Declaration of Human Rights. High-level national and European policymakers, international organisations, CSOs, media representatives, employers and professors, legal professionals, and many others participated.

In October 2018, more than 260 representatives of national human rights institutions met at the 13th International Conference in Morocco to highpoint the roles and contributions national institutions can have in expanding civic space and promoting and protecting human rights defenders. Conference participants discussed several areas such as: the crucial elements for an enabling environment and expansion of the civil space, as well as threats to human rights defenders. Special focus was given to activities that national institutions can take to protect human rights defenders, and on that occasion the Marrakech Declaration was adopted, to which the Ombudswoman also acceded. The 14th International Conference is scheduled to take place in 2021 hosted by the European NHRI.

Deputy Ombudswoman Lidija Lukina Kezić participated in the work of the Regional Forum on Human Rights Protection, held in Sofia in November. The participants of the Regional Forum signed the Declaration on strengthening the cooperation between the Ombudsman from Balkans states, to which the Ombudswoman also acceded.

Tena Šimonović Einwalter, Deputy Ombudswoman, as EQUINET Chair and ECRI member participated at the OSCE High-Level Conference, centred on intolerance and discrimination based on religion or belief. She stressed that OSCE member states have taken on important commitments in the fight against religious discrimination, but despite this, discrimination remains a reality for many members of different religious or belief communities.

In 2018, we continued to work side by side with colleagues from other closely related institutions. In February, representatives of the Ukrainian and Lithuanian ombudsmen participated in a study visit to our Office in order to strengthen the capacity of their institution. A conference on the development of human rights and freedoms in Morocco was held in Zagreb, where we exchanged experiences with the president of the National Council for Human Rights of the Kingdom of Morocco. In the same month, a delegation from their institution visited us to get acquainted with the work of the National Preventive Mechanism. The Delegation of the Human Rights Ombudsman of Bosnia and Herzegovina participated in a study visit in November to get acquainted with good practices in combating discrimination and exchange of experience. They also visited the Regional Office in Rijeka.

Republic of Croatia and International Human Rights Protection Mechanisms

The year 2018 marked the 70th anniversary of the adoption of the UN Universal Declaration of Human Rights. On this occasion, the Committee on Human and National Minority Rights of the Croatian Parliament held a session, which the Ombudswoman attended. The debate emphasized that the Universal Declaration was created in response to the horrors of World War II and is the first international document in the field of human rights protection, the adoption of which places the right of every individual to the core, regardless of race, colour, gender, language, religion, political or other beliefs, national or social origin, property, birth, education or social status. On the same occasion, in Rijeka, Osijek and Split we organized discussions on combating discrimination in the field of labour, on the rights of persons deprived of their liberty and on the free legal aid system.

After much controversy, in April 2018, the Croatian Parliament ratified the CoE Convention on preventing and combating violence against women and domestic violence, which was one of the recommendations in the 2017 Report. Croatia has been the 30th of 47 members of the CoE and the 18th member of the EU to ratify the Istanbul Convention. The Global Compact for Safe, Orderly and Regular Migration (the Marrakech Agreement) was adopted in December, primarily aimed at influencing the causes of migration by removing negative and structural factors that force people to leave their country of origin. GANHRI welcomed the adoption and called upon all stakeholders to work on its implementation. The need for a human rights-based approach in the implementation of the Agreement has been stressed and all countries that have not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, including the RC, have been invited to do so. The Agreement also stressed the need for states to promote and protect the rights of migrants, regardless of their migrant status. Given that this constitutes an important part of the work of national human rights institutions, in accordance with the powers of the Paris Principles, GANHRI has called on all states that have them, to support them in their work on the protection and promotion of human rights, including the rights of migrants.

In 2018, the Ombudswoman also met with the OSCE High Commissioner on National Minorities, as part of his official visit to the RC. The meeting put a special focus on the implementation of the existing legislation regarding the proportional representation of members of national minorities in state administration bodies, judiciary and police as well as on issues related to the official and public use of minority language and alphabet. They also discussed the atmosphere in the society related to members of national minorities, hate speech and hate crimes, and discrimination on grounds of ethnicity.

Although a Working Group for drafting the periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights was established at the Ministry of Labour and Pension System (MLPS) back in 2016, the Government has still not adopted the said report. In addition, although the OHRRNM presented the Report on the Implementation of the Convention on the Elimination of All Forms of Racial Discrimination in April 2018 at the Civil Society Development Council's session, the Government has not yet adopted it because after additional consultations it was decided that the Report is to include the period from the beginning of 2015 to the end of 2018, which we welcome.

The information that the MLPS continues with the preparatory activities for the ratification of the European Social Charter (Revised) is encouraging, since the Bill for its ratification has been drafted back in 2015.

In 2018, the National Council for Sustainable Development was set up to monitor the implementation of the UN 2030 Agenda for Sustainable Development. The announcement that in 2019 the RC will present a national progress report on the implementation of goals at the High-Level Political Forum

on Sustainable Development (HLPF) is encouraging. It would be important to include CSOs in the preparation of the national report.

During the chairmanship of the CoE Committee of Ministers, the RC has prioritized the fight against corruption, decentralization and effective protection of national minorities and vulnerable groups. On that occasion, among the many activities, the 20th anniversary of the entry into force of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages of the Council of Europe was marked. The Deputy Ombudswoman participated at the event. Nevertheless, it is hard to escape the impression that the RC has not recognized the role of independent human rights institutions and equality bodies as well as the one of civil society in the international human rights system when chairing the Committee of Ministers.

Finally, it is necessary to reiterate the need to ratify important international treaties that have so far failed to be ratified, which would introduce the highest standards of human rights protection and non-discrimination to the RC legal system. This primarily includes the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the European Social Charter (Revised).

Recommendations:

208. To the Government of the RC, to submit the reports to the Committee on International Covenant on Economic, Social and Cultural Rights and the UN Committee on the Elimination of All Forms of Racial Discrimination;
209. To the Government of the RC, to initiate the ratification process of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the European Social Charter (Revised).

5.5. PUBLIC RELATIONS

The promotion of human rights and equality is an important activity through which we strive to raise awareness of the general and expert public on issues within our competence. This particularly includes individual rights of citizens and the ways of their protection, as well as recommendations for achieving systematic changes. Public relations are an inevitable element in pursuing these objectives. We have based them on cooperation with the media and communication through ombudsman.hr website, social networks and email.

The national media continued to show interest in the topics of the Ombudswoman's competence, which mostly concerned the rights of workers, the problems of the older persons, poverty, discrimination, the relativisation of the ISC crimes, the salute "For Homeland – Ready", migration, minority rights, whistleblower protection and others. Furthermore, the Annual Report of the

Ombudswoman for 2017 had a great resonance. The regional and local media were also interested in the fieldwork of the Office, as well as in the reasons why citizens from the areas in which those media operate are addressing it.

Information on what a worker can do if his/her employer does not pay their salary, the Annual Report of the Ombudswoman for 2017 and the ISC crime relativisation analysis were the most read content of the ombudsman.hr website. We continued to send an email newsletter to inform the Deputy Clubs and Committees of the Croatian Parliament, public government bodies, CSOs, the media, institutions monitored by the NPM, interested individuals and many others on specific topics in the field of human rights and discrimination and on the activities of the institution.

In 2018, the Twitter profile @OmbudsmanHR gathered additional 200 followers, which is an increase of 10% compared to the previous year. Posts about the parliamentary debate on the Annual Report of the Ombudswoman for 2017 and the announcement of a round table on hate speech had the highest reach, while the greatest interaction was produced by the Ombudswoman's quotes from the UN Working Group on Ageing in New York and the posts related to the meetings of the Human Rights Council. Since 2018, Twitter users have the opportunity to communicate directly with the Ombudswoman via Twitter, after she had activated her own profile, independent of the Office profile.

6. HUMAN RESOURCES, ORGANIZATION OF WORK AND THE OFFICE BUDGET

Internal organization of the Office and its work

As of 31 December 2018, the Office of the Ombudswoman employed 48 civil servants and one other employee, 40 of them at the Office headquarters in Zagreb, three in Split and Osijek respectively, and two in Rijeka. 39 completed university study programs, three completed professional programs and seven persons completed secondary education. In 2018, two persons completed their on-the-job training at the Office, one in Zagreb and one the regional office in Rijeka.

In 2018, the Office of the Ombudswoman was managed by the Ombudswoman and three Deputy Ombudswomen.

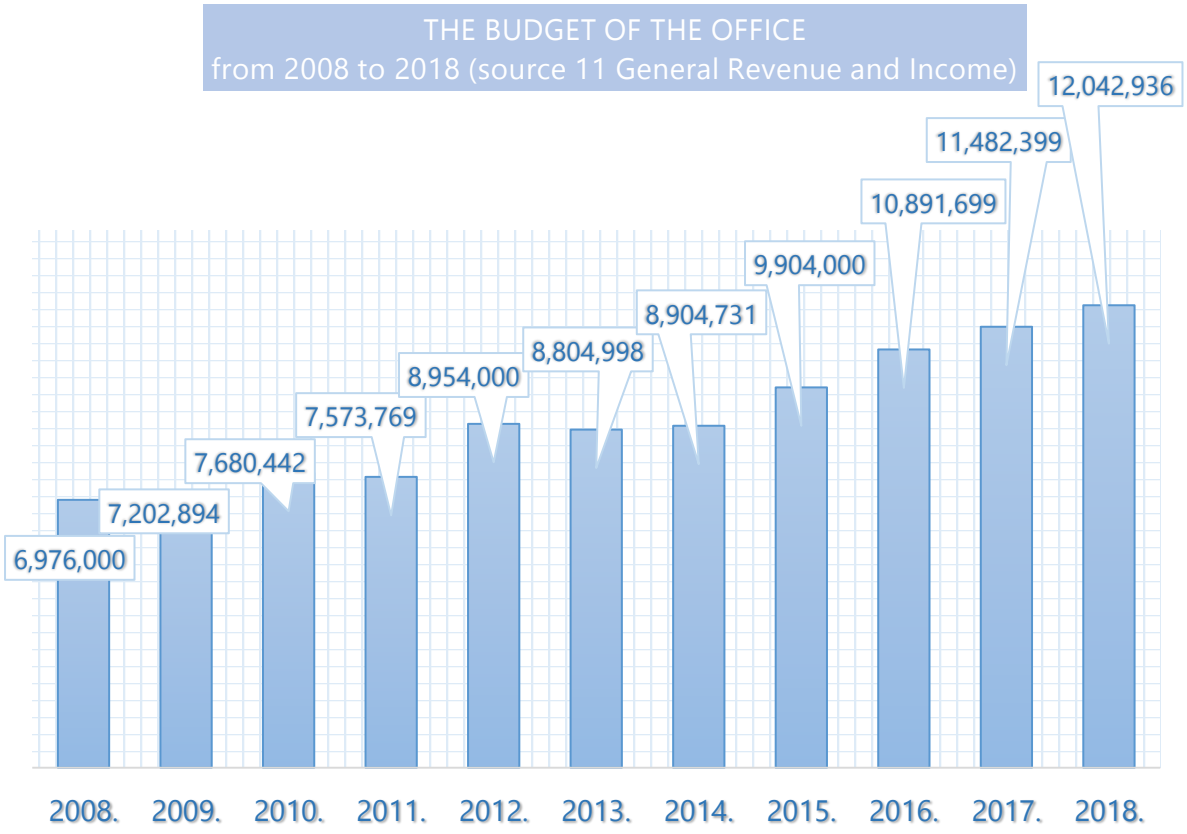
The budget of the Office

The budget of the Office of the Ombudswoman marks a continuous slight increase since 2013, which is definitely encouraging, since the number of cases it deals with has been growing. Only by

strengthening the material and financial capacities of the Office we can respond to such large increase in the number of cases and effectively perform all the tasks assigned to the institution by the Ombudsman's mandates, an independent Status A institution, central anti-discriminatory body and body for the National Preventive Mechanism. That is why it is necessary to continue to strengthen it in the future, especially in the context of the new mandate given to the Ombudswoman by the Whistleblower Protection Act and for the implementation of which additional resources need to be provided in the State Budget, so as not to hamper the institution's work in other mandates.

The Office's total expenditures in 2018 amounted to HRK 11,986,171.12 or 99.53% of the planned amount. Expenditures for the personnel expenses reached 99.91%, material expenses 98.73% and those for the non-financial assets 94.64% of the planned budget. In relation to 2017, they increased by 4.88%, and this increase mainly referred to the expenses for the employees, expenses for a more extensive field work, participation in the UN Working Group on the rights of older persons held in New York, and the participation at the 13th International Conference of National Human Rights Institutions in Morocco.

These data refer to the funds financed from the source 11 General Revenue and Income.



7. CONCLUSION

Democratic maturity of institutions and their commitment to the rule of law certainly depend on the implementation of recommendations given by the Ombudswoman to bodies on the national, regional and local levels, and to other stakeholders in the field of human rights protection and combating discrimination. In this respect, good and systematic cooperation is exceptionally important, as the best way for creating and implementing successful public policies, in order to remove irregularities and deficiencies threatening citizens' rights and inhibiting their lives.

Our society is continuously characterised by citizens' strong distrust of the institutions, as confirmed by research, which, along with a poorly organised state, is among the main reasons for emigration, according to citizens. Many Croatian citizens, older ones in particular, still face poverty preventing them from exercising many other rights. The lack of social, health, communal and other services, energy poverty and isolation from public transport remain part of daily lives of many of our citizens, especially those in rural areas and on the islands. Many still face discrimination on account of their national descent, age or income, particularly in the fields of labour and employment, and access to goods, while divisive and discriminatory language, even including hate speech, strongly characterises public discourse. It is particularly concerning when such language is used by public figures and politicians who should provide an example for building a society based on tolerance and appreciation of diversity.

Unfortunately, many of the recommendations we provided to competent authorities, both during the year and in our reports to the Croatian Parliament, have not been implemented, representing a missed opportunity to directly influence a higher level of human rights protection. It is encouraging, however, that our recommendations are taken into account to a greater extent, and that cooperation with competent authorities is mainly good, although there is room for improvement, especially with regard to timely provision of requested information. It is, however, important to reiterate that the Ministry of the Interior denies us immediate access to case files and information about the treatment of migrants, which practice needs to be changed as soon as possible.

As for the area of operation of the National Preventive Mechanism, no actions were recorded that could represent torture, though some were that amounted to inhuman or degrading treatment. The lack of effective investigation about expulsions of migrants with the use of force and ignoring requests for international protection unfortunately leave a lot of room for doubt about such conduct, while also removing any opportunity for preventing it.

The protection of persons reporting irregularities is a new mandate of the Ombudswoman, pursuant to the Act on the Protection of Persons Reporting Irregularities coming into effect as of 1 July 2019. However, no funds have been ensured for its implementation, representing direct pressure against the work of an independent institution in all its mandates.

Positive developments in the protection of human rights are certainly welcome, but competent authorities and decision makers are yet to face true challenges. We hope that the recommendations from his Report will be implemented to an even greater extent, as the protection of human rights and restoration of trust of the institutions represent, along with economic development allowing an improvement of living standard, one of the most important ways to prevent the tide of emigration we have been witnessing in recent years.

8. Appendix: List of Abbreviations

AEM – Agency for Electronic Media
ARPTB – Agency for Real Property Transaction and Brokerage
ETTA – Education and Teacher Training Agency
AYS – CSO 'Are you Syrious?'
GDP – Gross Domestic Product
FLA – free legal aid
CAT – UN Committee Against Torture
CEPOL – EU Agency for Law Enforcement Training
WMC – waste management centre
CCR – Comprehensive Curricular Reform
CPS – Centre for Peace Studies
CPT – European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
SJC – State Judicial Council
CBS – Croatian Bureau of Statistics
EEA – European Environment Agency
ECRI – European Commission against Racism and Intolerance of the Council of Europe
EFJ – European Federation of Journalists
EEA – European Economic Area
EC – European Commission
ECHR – (European) Convention for the Protection of Human Rights and Fundamental Freedoms
ENNHRI – European Network of National Human Rights Institutions
EPOV – EU Energy Poverty Observatory
ERCAS – European Research Centre for Anti-Corruption and State-Building
ESI – European Structural and Investment Funds
ESF – European Social Fund
ECtHR – European Court of Human Rights
EQUINET – European Network of Equality Bodies
Eurofound – European Foundation for the Improvement of Living and Working Conditions
FEAD – Fund for European Aid to the Most Deprived
FEANTSA – European Federation of National Organisations Working with the Homeless
FINA – Financial Agency
EPEEF – Environmental Protection and Energy Efficiency Fund

FRA – EU Agency for Fundamental Rights
GANHRI – Global Alliance of National Human Rights Institutions
GDPR – General Data Protection Regulation
CRANI – Croatian Regulatory Authority for Network Industries
CBC – Croatian Bishops' Conference
CRC – Croatian Red Cross
CQFA – Croatian Qualification Framework Act
HEP – Hrvatska elektroprivreda Group
CERA – Croatian Energy Regulatory Agency
CCE – Croatian Chamber of Economy
CHC – Croatian Helsinki Committee
CNC – Croatian Nursing Council
CMC – Croatian Medical Chamber
CJA – Croatian Journalists' Association
CFA – Croatian Football Association
CBA – Croatian Bar Association
CDF – Croatian Defence Forces
CMA – Croatian Mediation Association
CPII – Croatian Pension Insurance Institute
CES – Croatian Employment Service
CIPH – Croatian Institute of Public Health
CHIF – Croatian Health Insurance Fund
CNB – Croatian National Bank
IOI – International Ombudsman Institute
IC – Istria County
LRGU – local or regional government unit
LGU – local government unit
UHC – University Hospital Centre
CFT – Catholic Faculty of Theology
LAG – local action group
MSP – Ministry of State Property
MDFYSP – Ministry of Demography, Family, Youth and Social Policy
MF – Ministry of Finance
MCPP – Ministry of Construction and Physical Planning
MCWV – Ministry of Croatian War Veterans
ICTY – International Criminal Tribunal for the Former Yugoslavia
MD – Ministry of Defence
MJ – Ministry of Justice
MLPS – Ministry of Labour and Pension System
MRDEUF – Ministry of Regional Development and European Union Funds
MPA – Ministry of Public Administration
MI – Ministry of the Interior
MH – Ministry of Health
MSE – Ministry of Science and Education
MEPE – Ministry of Environmental Protection and Energy
NP – national park
NPM – National Preventive Mechanism

TIPH – Teaching Institute of Public Health
CSO – civil society organisation
MSAO – Municipal State Attorney's Office
OECD – Organisation for Economic Cooperation and Development
OSCE – Organisation for Security and Cooperation in Europe
OEWG – UN Open-Ended Working Group on Ageing
ECC – emergency communications centre
PMMUS – price of minimum mandatory utility service
NCF – National Curriculum Framework
OPCAT – UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PGKC – Primorje-Gorski Kotar County
TIW – temporary incapacity to work
RTCF – reception and transit centre for foreigners
SHCP – Subsidised Housing Construction Program
RHP – Regional Housing Program
SEEMO – South East Europe Media Organisation
CSORHC – Central State Office for Reconstruction and Housing Care
SDC – Split-Dalmatia County
SNC – Serb National Council
SIA – Security and Intelligence Agency
SOC – Serbian Orthodox Church
SPT – UN Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CPU – Croatian Pensioners Union
STEM – study programs in science, technology, engineering and mathematics
WHO – World Health Organisation
SAO – state administration office
OHRRNM – Office for Human Rights and the Rights of National Minorities
UNDP – United Nations Development Program
UNFCCC – UN Framework Convention on Climate Change
CARNM – Constitutional Act on the Rights of National Minorities
CoE – Council of Europe
CEM – Council for Electronic Media
VSC – Vukovar-Srijem County
SAFCNLC – State Anti-Fascist Council for the National Liberation of Croatia
FLAA – Free Legal Aid Act
EMA – Electronic Media Act
OOPRA – Ownership and Other Property Rights Act
EPSA – Execution of Prison Sentence Act
CVWF – Croatian War Veterans Foundation
CEA – Communal Economy Act
CPA – Criminal Procedure Act
GMA – guaranteed minimum allowance
PIA – Pension Insurance Act
ITPA – International and Temporary Protection Act

NPMA – Act on the National Preventive Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CSA – Civil Servants Act
SAA – State Attorney Act
COA – Civil Obligations Act
PSEA – Primary and Secondary Education Act
RA – Residence Act
LA – Labour Act
FA – Foreigners Act
HPA – Health Protection Act
EPA – Environmental Protection Act
APPR – Act on the Protection of Patients' Rights
PAAA – Police Actions and Authorities Act
AASSC – Act on Areas of Special State Concern
AEMF – Act on Execution against Monetary Funds
ALPRC – Act on the Legal Position of Religious Communities
ADA – Anti-Discrimination Act
SWA – Social Welfare Act
APA – Administrative Procedure Act
JCM – Joint Council of Municipalities
ASAHE – Act on Scientific Activity and Higher Education

Notes