Ombudswoman's Report

Zagreb, March 2023

Analysis of the state of human rights and equality in Croatia

2022

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Gender-specific terms used in this Report refer equally to both the male and the female gender irrespective of the gender they were used in.

1. INTRODUCTION

Esteemed Members of the Croatian Parliament,

The 2022 Ombudswoman's Report presents **an independent analysis and assessment of the state of the protection of human rights and freedoms** in the Republic of Croatia and of the situation related to certain categories of violations of the rights of individuals or social groups. Recommendations aimed at the strengthening of the protection of human rights and freedoms in Croatia, presented throughout the chapters of the Report, **are of particular value** (the Report for this year includes 170 such recommendations).

The role of this Report is to draw attention to systemic problems that already are or could soon be visible in the citizens' everyday lives by referencing citizens' **complaints** and data and information collected from a wide range of stakeholders, including a variety of state authorities, local and regional self-government units, as well as religious communities, civil society organisations, trade unions, employer associations, academia, professional associations, the National Minority Council, international organisations, and other stakeholders. Our conclusions are also based on the information gathered during field visits, which in 2022 included visits to the victims of the earthquakes in the Sisak-Moslavina County and the city of Zagreb, residential care homes, war veteran centres, Roma settlements, locations affected by environmental threats, prisons, police stations and detention units, foreigner reception centres, and psychiatric clinics and wards. In compiling this Report, we also used a number of published scientific **sources and statistical** indicators, along with our own studies and analyses: "Study of the Opinions and the Level of Awareness of Discrimination and Discrimination Occurences" and the study "How to Exercise Social Welfare Rights? Availability of the Information and the Administrative Prerequisites for the Access to the Benefits in the Social Welfare System – GMB and One-time Benefit".

This Report therefore serves as an **early warning system pointing out to the "cracks" in the system for the protection of the citizens' constitutional and legal rights**, whereas its recommendations suggest actions that **need to be taken** to make the protections stronger and more efficient. This is particularly important given that, although **minor positive changes** are visible in a variety of areas, we are **unable to state that substantial progress** has been made in any of the areas regarding the state of human rights and equality.

This Report is presented at a time when the costs of living are surging as a result of the uncertainty caused by the still ongoing war in Ukraine, and when the consequences of the devastating earthquakes that struck Croatia in 2020 are still present to a significant degree. Sadly, at the moment when we are presenting the new report, the previous one, covering 2021, **has still not been discussed at a plenary session of the Croatian Parliament.** The thematic report "The impact of the COVID-19 Epidemic on Human Rights and Equality – Recommendations for Strengthening the Resilience to Future Crises", also submitted last year, has likewise not been discussed as yet.

In thus treating its commissioner responsible for the promotion and protection of human rights, and her reports serving as a resource for the launch and giving direction to the necessary changes, the Croatian Parliament failed to support her recommendations and thus promote the changes. In addition, timely discussion is important to give the Members of the Parliament an opportunity to discuss the reports while the extensive data they contain, which were collected through the efforts of a number of public law public law bodies and other stakeholders we request data from, along with the situation analysis that we produce based on these data and the associated recommendations, are still current, as they lose relevance with the passage of time. On the other hand, we would like to draw attention to the Croatian Government's Human Rights Council as a positive example of cooperation. The Council discussed the 2021 Ombudswoman's Report soon after its submission, and adopted a Conclusion calling on the public authorities to take adequate action and undertake activities to implement the recommendations presented by the

Ombudswoman, or submit to the Ombudswoman an appropriate justification of their inability to implement them.

We therefore voice our hope **that this Report will be discussed in the year of its submission**, which also marks the 75th anniversary of the UN's Universal Declaration of Human Rights. In addition, we would like to underline that the European Commission issued five recommendations to the Republic of Croatia in its Rule of Law Report. One of these recommendations was to ensure a more systematic follow-up of the Ombudswoman's recommendations and her requests for information.

The 2022 Report follows a similar **concept** as its predecessor, whose innovations have been retained: the chapters are divided by specific human rights, and the recommendations are highlighted in the sections of the chapters describing the issues they concern. Repeated recommendations are a new addition. This year's report again includes a list of public consultations the Ombudswoman participated in. The chapters introduced last year dealing with the right to good governance, artificial intelligence, human rights defenders, and proceedings before the European Court of Human Rights concerning RC have been retained. Some **new chapters** have also been introduced, including a chapter on young people, in view of the fact the EU declared 2022 the Year of the Youth and organised activities in this respect, and a chapter on displaced persons from Ukraine and the exercising of their rights in the RC.

In 2022, the majority of the citizens' complaints received by the Ombudswoman **concerned** the right to health, discrimination, the right to work, and the justice system. The citizens' complaints and their processing are a fundamental part of this institution's activities. Some of these complaints have been quoted in the Report as an authentic voice of the citizens regarding the issues they wrote to us about. We received more than 3,000 such complaints in 2022. In addition to pursuing them individually, we also use them as a source of information about the systemic problems, which we report on to the Croatian Parliament. We hope that the Members of the Croatian Parliament will find the **examples of complaints** included in this Report helpful in proposing and advocating for the necessary changes, including those proposed by the recommendations given in this Report.

Working in a wide range of areas and on a wide range of rights, we observed several common issues, the foremost being the **low level of awareness among the citizens of their rights and of the available protections**. The citizens need to be provided with better information in this regard. **Inadequate communication** of the authorities with the citizens is another problem, most commonly manifested as failure to reply or delay in replying, but also as too formalistic replies, along with **unsatisfactory actions** taken by the authorities, in the sense of taking a long time and of failing to apply the principle of assisting the party in the proceedings. Finally, we also noted that the authorities are shifting tasks and/or responsibilities to one another, and that there is a lack of information sharing and cooperation between the sectors. All this contributes to the low level of trust in the institutions and is a matter of the **right to good governance**, but also affects a range of other rights. Examples of this include failure to inform the citizens about their rights in the social welfare or healthcare systems, and about the complaint mechanisms related to healthcare/patient rights or police actions. The insistence of the public law public law bodies on a certificate of permanent residence as the only proof of residence, instead of identifying the person's actual place of residence in order for this person to be able to access to the rights conditional on residence, is an important example of this.

There are also **significant obstacles impeding the participation of the citizens and the professional community in decision-making.** Public consultations are thus often reduced to merely satisfying the form. In 2022, more than a half of the comments submitted in e-consultations were not replied to or were merely taken note of, and only a fifth were adopted in part or in full. A substantial portion of the comments made by the Ombudswoman in the public consultations, in whose preparation we invest an effort throughout the year in order to contribute to the quality of the regulations and strategic documents prior to their entering into force, as well as our comments submitted while participating in discussions in the parliamentary committees, were likewise not accepted. At the same time, we have witnessed unfavourable outcomes for

the citizens' rights that can be ascribed to the failure to acknowledge solid arguments submitted during public consultations, and insistence on the originally proposed solutions. An example of this isa substantial number of lowest-income citizens, at least 530 of them from across Croatia, who opted not to receive the guaranteed minimum benefit after the new Social Welfare Act entered into force, fearing that a claim would be entered on their only real estate property. Eventually, it was announced that these provisions would be subsequently amended, but the citizens needlessly suffered and continue to suffer the consequences of such a solution in spite of the fact that the Ombudswoman had warned during the public consultations that this might happen. In addition, legislative proposals are often accompanied by insufficient explanations, which are important not only for understanding the purpose of the proposed provisions, but also for ensuring their uniform enforcement once the act enters into force, and thus ensuring a higher degree of legal certainty.

The majority of the complaints received by the Ombudswoman in 2022 pertained to the **right to health**, the exercise of which is subject to a number of challenges. Citizens contacted us about inadequate and untimely medical treatments, failures to provide information to patients, inadequate communication of the doctors with their patients, insufficient information sharing between different doctors and their access to different types of the patients' health records, and unclarities regarding actions taken pursuant to the citizens' complaints submitted to the competent bodies within the healthcare system. The first of the many steps needed for the healthcare system reform have been made, but at the time being there is insufficient clarity on how exactly is they are going to help in the exercise of the right to health, and to what extent, if patients are not indeed placed in the focus of the reform, and if better working conditions are not ensured for the employees in the system. We are drawing attention to this issue at a time when Croatia has one of the highest cancer mortality rates in the EU, a rate of deaths that could have been avoided through timely and efficient healthcare much higher than that of the EU, and a palliative care system that is underdeveloped and unavailable to the citizens facing exceptionally difficult circumstances.

The aftermath of the earthquakes was also a dominant topic in 2022. The key problems included the too slow pace of the reconstruction, which is associated with complex procedures and insufficient stakeholder capacities. Only six homes that were destroyed in the Petrinja earthquake were rebuilt from scratch in 2022, for instance. The lack of adequate communication with the earthquake victims, and their housing in the containers that were supposed to serve as temporary crisis relief, but people ended up living there for years, were also a problem. Due to these reasons, the citizens stated that they felt forgotten, and their trust in the institutions further eroded.

There were difficulties in exercising the **right to adequate housing** in general, which calls for more tangible efforts to adopt a housing strategy that would ensure affordable housing on a wider scale. The citizens drew attention to the problems of too high apartment prices and rents. At the same time, the number of apartments available for public leasing is still insufficient, and citizens still face difficulties accessing energy and safe water for human consumption.

Regarding the **right to work**, the citizens sought the Ombudswoman's help with regard to illegal dismissals, unpaid salaries, mobbing, illegal and unpaid overtime, abuse of fixed-term employment contracts, and similar problems. The Ombudswoman received complaints citing violations of the rights relating to employment in the business sector and the crafts (the private sector) as well as in the public and the civil services. The number of complaints received from foreign workers is also on the rise. Regarding the regulations in this area, the amendments to the Labour Act and the adoption of the Act on the Suppression of Undeclared Work were the most important developments in 2022. Complaints of **discrimination in work and employment** for the most part concerned discrimination on the grounds of health status, age, trade union membership, and national origin. The Ombudswoman would also like to draw attention to the problems encountered by the so-called platform workers.

The support provided to the socially vulnerable citizens was still insufficient. The data about the share of the social exclusion spending is indicative: in Croatia, this spending accounts for 0.4% of the GDP, compared

to the EU average of 0.7%. The entering into force of the new **Social Welfare** Act was one of the most important developments in 2022. By setting up the Croatian Institute of Social Welfare, this Act further centralised the system, which was supposed to lead to equal treatment, but the complaints show that this did not happen in practice. For example, regarding the availability of information to the citizens, a year after the Act entered into force, and more than a month after the Institute became operational, we see that the majority (57%) of the social welfare centres' websites, which formally do not exist any longer have not been renamed to reflect the new regulation, and 42% of the websites are not even working. A single website carries the name of the Institute's regional office, but citizens are unable to access any kind of content on this website. The poverty risk rate has increased to 19.2%, and the data for 2022 are expected to be even worse. Meanwhile, the number of citizens who receive the guaranteed minimum benefit has declined dramatically in spite of the increase in the level of poverty. Between 2018 and 2022, their number declined from 39,000 to 28,000. Sadly, even though the definition of homelessness was expanded in the new Social Welfare Act, the methods used by the social welfare centres to collect the data on the number of the homeless persons were not aligned with this definition, and the their exact number in Croatia remains unknown as a result. The national strategy against homelessness and the related protocol of actions have also not yet been adopted.

The Report again puts **older persons** in special focus. The latest census has shown that almost a quarter of the Croatian population (22.45%) is older than 65. Many of them live alone, have no support, and are still facing substantial difficulties in satisfying their basic needs. This equally applies to material needs (as a result of poverty and the increasing costs of living), social needs (home care, places in residential care homes, etc), and the unavailability of healthcare services that they require. Older persons living outside of the major cities, in the areas with poor availability of transport and in the areas far removed from the most important amenities (doctor, pharmacy, social welfare centre, post office, bank etc.) were in the most difficult position. In 2022, around 7,500 older persons concluded into lifelong support and support until death contracts, exposing themselves to the risk of abuse, and the additional protective mechanisms proposed by the Ombudswoman have not yet been introduced. Extensive residential care homes' waiting lists and the conditions in these homes, which are often unsatisfactory, are also a matter of concern. The number of senior victims of domestic violence has increased sharply, warranting better actions to combat violence against older persons.

This year, the Report contains a separate chapter on **young people** for the first time, focusing mainly on the right to work, the right to adequate housing, and the right to health, particularly in connection with the mental health of young people. Strategic actions require the adoption of a national youth programme. The high rate of persons in involuntary fixed-term employment contracts in the age group 15-29 is a matter of concern: Croatia has a rate of 25%, relative to the EU average of 12.2%. Croatia also has an above-average percentage of young people not in employment, education or training (NEET) of 14.9%. The Ombudswoman would like to draw attention to young people in alternative care as a group that is also in need of more support.

Justice system reform aiming to enhance its independence, impartiality, transparency and efficiency has continued. The negative perceptions held by the citizens persist, which requires improved communication in order to make the judiciary's activities more transparent and restore the citizens' trust, respecting the rules of conduct applicable to judges and state attorneys on the one hand, and respecting the interest of the public in certain topics on the other. At the same time, sufficient human resources need to be ensured, training needs to be provided, and court rulings have to be made public in order to improve the efficiency of the justice system. Difficulties related to **enforcements** are still present, and the need for a comprehensive analysis of the enforcement system and the preparation of a new and comprehensive Enforcement Act based on the results thereof, rather than the partial solutions that have been used so far, is still apparent.

Unacceptable speech and hate speech were markedly present in the public spaces, **mostly** online, especially in the social media. To supress these phenomena, persons in public roles need to not only refrain

from such expression, but also to condemn it publicly. It is also important to better inform the citizens about the definition of illegal speech in the public sphere and the fact that it is a punishable offence. Public expression and display of the symbols signalling hatred needs to be defined more clearly in the Act on the Offenses Against the Public Order and Peace. Also, stricter sanctions need to be introduced and perpetrators sanctioned adequately and consistently. Unverified and false information with potential to alarm the citizens are also a challenge. The Ombudswoman therefore also discusses the novelties related to the suppression of disinformation and the activities of the so-called factcheckers in this Report. SLAPP lawsuits, precarious forms of work, working conditions, and threats and attacks the journalists are exposed to affect the **freedom of the media**.

The 20th anniversary of the adoption of the Constitutional Act on the Rights of the **National Minorities** was celebrated in 2022. The enforcement of the Act with respect to cultural autonomy is satisfactory, but problems persist in the exercising of the rights to the use of the national minorities' languages and scripts, the right to adequate representation among the persons employed in the public administration and the judiciary, and the right to the adequate presence in the media. The voter census showed that the number of the members of the national minorities has declined by almost 27%. In some local and regional self-government units, their number dropped below the legal minimum required for the exercise of the right to representation in the representative and the executive bodies, and the right to the equal use of the minority languages and scripts.

The long-awaited new **National Plan for the Protection and Promotion of Human Rights and the Suppression of Discrimination** was not adopted in 2022, even though the previous plan expired as far back as 2016. Its action plans are insufficiently ambitious, given that they do not include specific and adequate measures.

As the **national equality body**, the Ombudswoman draws attention to the living conditions and the various obstacles faced by the members of certain groups, and point to concrete examples. Our 2022 survey on discrimination confirmed the problem of the lack of awareness, recognition and reporting when it comes to discrimination. The respondents identified labour and employment as the most problematic areas, and the membership of an ethnic group or ethnic origin as the most common grounds for discrimination.

The respondents of the survey cite the Roma as the group facing the highest levels of discrimination, which is not surprising given the marginalisation and the discrimination they face, and the insufficient policies for their inclusion in the society. The increased number of Roma children who are attending segregated school classes is a matter of particular concern. Serbs are also one of the major targets of discrimination and intolerance, which was obvious after the publication of the census results, when parts of the public welcomed the news about the substantial decline in the number of members of this national minority as positive. The shortage of Croatian language learning courses is still present as a major obstacle to the successful integration of migrants into the society. Meanwhile the number of foreign workers in Croatia, many of whom come from faraway countries, continued to increase in 2022. However, there are no public policies aimed at their integration into the society, and Croatian language courses are lacking, as is the information about the available ways to protect their rights, labour-related and otherwise.

As soon as the war in Ukraine started, Croatian Government started organising the reception and provisions **for displaced persons from Ukraine**, which the Ombudswoman welcomed. Croatian citizens showed solidarity as well. However, the difficulties displaced persons have faced in accessing temporary protection need to be eliminated going forward.

Full data on **hate crimes** for 2022, which are supposed to be aggregated under the Protocol of Actions in the Event of Hate Crimes, were not made available to us before the time of the submission of this Report. Separate data provided by the MI indicate that the number of these offences has declined sharply in 2022, but the Ombudswoman will only be able to provide conclusions on the situation regarding hate crimes upon the receipt of the full data compiled by the judiciary bodies.

In the cases related to the right to a **clean, healthy and sustainable environment**, the Ombudswoman acted both at her own initiative and pursuant to complaints regarding the pollution of various components of the environment and nature, including air, water, sea and soil, as well as to adequate waste management, light pollution, nonionizing radiation, and excessive noise.

The number of **whistleblowers** who contacted the Ombudswoman was up by as much as 60% compared to the previous year, which could be the result of the new Whistleblower Protection Act that entered into force in April 2022 and under which it is no longer mandatory to use internal reporting first, and whistleblowers can proceed to external reporting (the responsibility of the Ombudswoman) right away. Some employers still do not have a general act in place and have not appointed a person of confidence and their deputy, even though they are required by law to do so. On the other hand, there are positive examples of employers who put extra measures in place to make the internal reporting channels more efficient, and employers who put internal reporting in place even though they were not legally required to do so, since they have fewer than 50 employees.

The use **of artificial intelligence** has become a part of everyday life, and efforts are underway to regulate it by adopting the Artificial Intelligence Regulation on the EU level and the Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law at the level of the Council of Europe. Croatia, however, has still not prepared a national plan for the development of AI, and needs to remedy this as soon as possible, given the fast digitalisation and the use of AI in a number of areas in life.

The Ombudswoman opened cases related to the **actions of the police** both pursuant to complaints and at her own initiative. These cases related to unlawful deprivation of liberty, use of means of coercion, police misconduct, and unprofessional and unethical treatment of citizens by police officers.

The completion of the procedure of Croatia's accession to the Schengen area, a substantial increase in the number of registered irregular migrants, and the highest number of applications for international protection registered so far were the most important developments related to **migration** in 2022. As many as 12,827 persons applied for international protection in Croatia in 2022. The Ombudswoman devoted particular attention to housing conditions and the exercise of rights in the foreigner reception centres, where we made note of a variety of difficulties related to the exercise of the rights of persons accommodated there. In terms of the supervision and the responsibility for the respect of rights, the Ombudswoman reflects on the activity of the Independent Mechanism for the Monitoring of the Actions of Police Officers in the Area of Illegal Migration and International Protection, and underlines that the Ombudswoman has still not been provided with access to all data on actions related to irregular migrants.

In connection with the **prison system**, the majority of the complaints pertained to healthcare and accommodation conditions. The warnings and recommendations issued by the Ombudswoman after unannounced visits to penal institutions concerned the same topics. Overcrowding has increased further, having reached as much as 205% at the Osijek Prison, and having reached the highest level since 2015 at the Zagreb Prison. Given that as many as five out of the total of six deaths by overdose that occurred in prisons over a period of 16 months had occurred at the Zagreb Prison, we provided a separate analysis of the problems in the organisation of the distribution of substitution therapy in this penal institution.

Psychiatric institutions should only use means of coercion on **persons with mental disabilities** insofar as they are necessary to eliminate the immediate danger arising from their behaviour, which poses a serious and direct threat to their own or another person's life or health, and the housing conditions should be aligned with the international and national standards. During our unannounced visits, the Ombudswoman noted unsatisfactory accommodation conditions and unsatisfactory treatment, such as the use of diapers on persons not suffering from incontinence, or the placement of an agitated/aggressive patient into a small underground room without windows, fitted with an iron door. We delivered a number of trainings and organised public events, and in late 2022 celebrated the 30th anniversary of our institution, i.e., of the entering into force of the first Ombudsman Act. The Ombudswoman continued its cooperation with a number of stakeholders active in the area of human rights protection and the rule of law in Croatia, and participated in international activities as well.

2. ANALYSIS AND ASSESSMENT OF THE STATE OF HUMAN RIGHTS PROTECTION AND EQUALITY

2.1. Impact of the earthquakes on the exercise of human rights

"...Dear Tena! I'm sending you this e-mail because I believe that the Ministry in charge of reconstruction is for some reason delaying the issuing of the decision on the construction of a replacement family home. The home was demolished in October 2021 by virtue of the Ministry's decision... I submitted my application for the construction of a replacement family home in March 2021. Ever since the demolition of the home, I have been in constant contact with the officials who are working on issuing the decision on the construction of a replacement family home. They have been very friendly, and I sense that they honestly want to resolve our problem. However! They discovered a "problem". It relates to the house number, or, to be more specific, the fact that two adjoined homes occupied the same yard. I have a question. Why was the home demolished by virtue of the Ministry's decision, and now this is a problem? Why are they sending police investigators to find out where my family had lived? My family has nothing. The earthquake destroyed everything we had. Please, use your influence to help my family and all other earthquake victims. Thank you!"

The Ombudswoman gained an insight into the problems the citizens have been facing after their homes had been struck by earthquakes from the complaints that we continued to receive in 2022, from our communication with citizens' initiatives and civil society organisations working in the field, and from our visits to the earthquake victims housed in container settlements in the SMC and the Arena Hostel, but also the citizens whose homes were destroyed in the Medvedski Breg area in Zagreb. Notwithstanding the time that has passed and the affected area in question, the effects of the earthquake remained a marked presence in 2022. Three key problems have been identified: 1) the too slow-paced reconstruction of buildings, which is associated with the legal framework and with the complexity of the procedures, and the insufficient capacities of the stakeholders participating in the reconstruction; 2) inadequate communication with the earthquakes' victims; and 3) the fact that the emergency crisis housing in mobile housing units (containers) has been dragging on for years.

Reconstruction of buildings: long duration and uncertainty

In their complaints, the citizens often drew attention to the long duration of the authorities' actions, inspiring in them a sense of uncertainty as to when the reconstruction would take place, and if it would take place at all. Among others, we received a complaint from a person whose family home in Zagreb was demolished in October 2021, and who was still waiting for the replacement building. The MPPCSA informed us that the decision on the construction of the replacement family home was issued in 2022 and forwarded to the Fund for the Reconstruction of the City of Zagreb, Krapina-Zagorje County and Zagreb County, which was supposed to enforce it. The Fund said that they first had to check if construction was possible at the site that used to be occupied by the demolished home, given the geological changes and landslides. After that, the public procurement procedure for the design of replacement family homes was started in September 2022. According to the information from November 2022, the evaluation of the tenders received was in progress. No deadlines for the start of the works were mentioned, not even approximate ones.

We also received a complaint from a family with seven underage children, who have been living in a container in their yard in a village outside of Sisak. They submitted their application for reconstruction to a mobile team in March 2021, and the statement received from the CSORHC indicates that they had not yet received the decision on reconstruction in April 2022. The Ombudswoman received no information from the MPPCSA about this case, not even after three reminders.

The speed of the removal of the damaged buildings, which are sustaining further damage from bad weather and subsequent earthquakes, largely affect the safety of passers-by in the affected locations. For instance, during our visit to Petrinja, the members of the Citizens' Initiative Petrinjsko proljeće ("Petrinja Spring") showed us a dangerous building that parents with children have to pass by every day on their way to the nursery school.

Photograph 1

There are also family homes nearby, and the waste that has piled up cannot be removed due to the state of the building. According to the information received from SIRC, the decision on the removal of the building has been issued, and the public procurement procedure was initiated to choose the best contractor for the removal, but the deadline for the removal has not been defined. The removal of this building is governed by Article 113.a of the State Inspectorate Act, given that it was damaged in the earthquake and poses an immediate threat to public areas and neighbouring buildings, as well as a threat to people's health. Since an extraordinarily large number of buildings in the SMC lost their mechanical resistance and stability due to the impact of the earthquakes, but also due to a lack of maintenance and to poor quality of the construction, the construction inspection is undertaking emergency building removals. However, the priorities guiding the inspectors in case of several simultaneous emergencies are unclear, which is a concern for the residents of the areas in question.

SIRC states that it issued 305 decisions on this legal basis, 73 of which still remain unenforced (the majority in Sisak and Glina, where there are 22 unenforced decisions each, along with six unenforced decisions in Zagreb, and other decisions elsewhere). Removals were mostly focused on family residential buildings and their supporting buildings. According to SIRC, further removals are planned, as the tremors in the ground continue, and new applications for inspections continue to arrive. To speed up the procedures, we would like to recall the fact that military engineering troops got involved in the removal of the destroyed buildings in 2016 and 2017 in the area of Pakrac. We therefore recommend to the MPPCSA, in cooperation with SIRC and the MD, to apply this model to the removal of buildings, especially when multiple such buildings are located in the same LGU, geographical area or block.

Recommendation 1

For the Ministry of Physical Planning, Construction and State Assets, in cooperation with SIRC and the MD to: get military engineering troops involved in the removal of buildings, especially when there are multiple such buildings in the same local self-government unit or the same geographical area or block

By 31 December 2022, the MPPCSA received 20,573 applications for reconstruction concerning 18,745 separate locations, associated with the earthquakes in Zagreb and in Petrinja, and 7,418 reconstruction decisions have been issued. The number of reconstruction decisions issued in 2022 was up 82% compared to the previous year, i.e. by 1,891 decisions.

In terms of enforcement, according to the Fund's data for the areas of the City of Zagreb and the Krapina-Zagorje County, 40 family homes were removed by 31 December 2022. A total of 17 orders were issued for construction design of replacement family homes. Structural reconstruction is in progress on six family homes/buildings, 279 reports have been prepared by authorised engineers, and procurement is in progress for a total of 12 family homes/buildings. Organised non-structural reconstruction has been completed on two family homes/buildings, and work is in progress on another 13. Contracts have been signed for design services for 886 buildings. Structural reconstruction work organised by the home owners themselves is in progress on 20 family homes/buildings, and has been completed on 14. A total of HRK 35,633,225.31 has been disbursed. Financial support amounting to HRK 137,637,041.56 has been disbursed for non-structural reconstruction organised by the home owners for 2,245 family homes/buildings.

Regarding the Petrinja earthquake, according to the data posted on https://potresinfo.gov.hr/, by 31 January 2023, non-structural reconstruction was completed on 4,165 homes, 1,090 homes were rebuilt by their owners, and works were in progress on 620 homes. Six houses have been built anew, and the construction of 94 houses (of which 11 were financed by donors) and 15 buildings were in progress. 860 buildings were removed.

This data, combined with the citizens' complaints, indicate an unsatisfactory pace, especially of structural reconstruction and construction of replacement homes. The situation occurring in 2022 was largely caused by very complex legal solutions and procedures, and the lack of capacities. The Ombudswoman therefore supported the effort to speed up the processes by participating in the public consultations about the new Reconstruction Act, drawing attention to the need to simplify it as much as possible, and to take into account the contributions of the professional community and the public in the process of its adoption. The Ombudswoman also drew attention to the need to hold public consultations in the process of adoption of by-laws, as per the Act on the Right of Access to Information, which had not been respected in case of the Reconstruction Measures Programme from July 2022.

The demand in the construction market increased after the earthquakes, and the prices of materials and the high inflation rates pushed up the prices of services and works. Combined with the problem of labour shortage, this resulted in limited and insufficient supply and involvement of the construction companies. At the same time, the authorities responsible for the reconstruction process drew attention to the lack of officials available to work on these tasks. Almost every complaint submitted to the Ombudswoman concerned the long duration of procedures and the failure to provide the information about the status of the case. The Ombudswoman noted that the focus has shifted from organised reconstruction to the promotion of reconstruction organised by the building owners. We may assume that many citizens will decide to seek bank loans to finance future works, and we would like to recall once again the recommendation that the Ombudswoman issued to

Recommendation 2

For the Ministry of Physical Planning, Construction and State Assets to: undertake the necessary measures to speed up the procedures associated with post-earthquake reconstruction cases by hiring more officials to work on these cases, or conducting an internal reorganisation

the MPPCSA in June 2021, concerning the promotion of communication with commercial banks on providing affordable loans to finance the reconstruction.

Pursuing the complaints we received, we also noted certain specific problems.

"...I come from Sisak. I am sending you this e-mail in hope you can help me with my case. The issue is as follows: my apartment in Sisak was destroyed in the earthquake that hit the area on 28 December 2020. Only the external walls of the apartment building were left standing, and everything inside was destroyed. There is a red label on the outside of the building, and I have also signed the demolition form. However, the company that had the contract for the maintenance of the building continues to bill me for the maintenance fee, even though the building is gone, condemned. The company has threatened me with enforcement. Ms. Tena, I am worried... I am not going to pay the maintenance fee for a building that is no longer there. It would be absurd. I have no idea what to do next..."

Some months later, we received a follow-up e-mail:

"The building that my apartment was in has been demolished, and I really have no idea what will happen now as far as reconstruction is concerned. Be that as it may, I hope that Mr. ..., who had not even bother to contact me, will no longer bill me for the maintenance fee now that the building has been demolished, because there is nothing left there..."

The complaint concerned the payment of the maintenance fee for the buildings that were declared hazardous and unfit for occupation due to the damage they sustained, and their occupants were provided with alternative housing. Many of the earthquake victims are in a very bad financial position: some of them are repaying loans for the damaged real properties they are not living in, and are facing enforcement for not paying the maintenance fees for the buildings destroyed in the earthquake. Tenant representatives and building managers have no idea how to overcome this problem. The regulations currently in force do not recognise this extraordinary situation, of which we have informed the MPPCSA and the MJPA in July 2022, suggesting that they urgently consider and adopt a regulation temporarily exempting the buildings' co-owners from the payment of the maintenance fee, having in mind the purpose of the fee and the rights of the third parties, and defining a moratorium on enforcements resulting from failure to pay the maintenance fee. Since nothing changed, the Ombudswoman repeated our proposal during the public consultations and the procedure of adoption of the new Reconstruction Act in early 2023. Our recommendation was partially accepted: in March 2023, the Croatian Government adopted the Decision regulating the manner of payment and the amount of the maintenance fee for buildings damaged by the earthquakes in Zagreb, the Sisak-Moslavina, and the Karlovac Counties. The Ombudswoman continues to monitor its enforcement. However, our recommendation to the MPPCSA and the MJPA to introduce a moratorium on initiating enforcement procedures for unpaid maintenance fees has not yet been accepted.

Recommendation 3

For the Ministry of Physical Planning, Construction and State Assets and the Ministry of Justice and Public Administration to: set a moratorium for the initiation of enforcement proceedings resulting from failure to pay the maintenance fee for buildings destroyed in the earthquakes

The citizens have also complained of problems with the buildings' co-owners, who have blocked the

reconstruction, often only to satisfy their own interests, and of the authorities taking a long time to give their consent in the cases when the real properties were partially state-owned. In the course of the e-consultations, in order to speed up the procedures, we suggested that the court proceedings in question should be declared urgent, which was accepted, and that the consent for the reconstruction given by the public law public law bodies, acting as the co-owners of real properties, should be mandated as a legal presumption.

Also, given that the reconstruction is a matter of the national and the public interest, and given the potential risk of proceedings getting postponed/blocked due to conflicting interests of individuals making up the associations of property owners, and having in mind that some of these buildings are a part of historical, urban and cultural areas, our proposal is to consider making mandatory the reconstruction of all buildings that require structural reconstruction, or that have been declared hazardous during the preliminary inspections, irrespective of the co-owners' decision.

Problems in communication with the earthquake victims

"My household consists of my mother, who is 85 years old, very ill and immobile, and my husband, who receives a minimal income and who is repaying a loan for the renovation of the apartment (a floor of the house) that we lived in, which has now been destroyed. I am retired. Regardless of all these circumstances, we have been able to scrape together some money to get a detailed inspection performed as soon as possible, and a project of the existing circumstances and the reconstruction prepared as soon as possible, so that we could submit an application for reconstruction undertaken by the owners as soon as possible. When all the documents were completed, we submitted the application for reconstruction on 17 June 2021. The application concerned reconstruction undertaken by the owners, and it was submitted to the competent Ministry on 17 June 2021. To this application, we enclosed all our IDs as proof of residence, the title deed, the certificate proving how old the building was, the project of the existing circumstances and the reconstruction project, our marriage certificate and birth certificate as proof of our family relationships, the special power of attorney and the power of attorney, and the statement on reconstruction undertaken by the owners. Also, in August 2021, more than a year ago, we submitted the reconstruction project that had been inspected and approved by the conservation office. While we fully understand the Ministry's caseload, we contacted them on several occasions, and were given different information each time. I would like to point out that the real property that has been damaged in the earthquake is sustaining further damage now from the rain and other factors. The amount we will have to pay for its reconstruction has increased greatly in comparison to the original amount, and we do not qualify for a loan, and this whole situation is only making our agony worse. This delay in the procedure is only making our agony worse, while our real property keeps sustaining even more damage! The prices of construction materials continue to increase. Also, as our real property keeps deteriorating, the costs of its reconstruction are bound to increase. The building is leaking everywhere, and the walls are becoming increasingly waterlogged. I invite you to visit us and conduct an inspection in the field! This e-mail is to ask for your urgent help. We have no idea what is happening with our case, and why we are not allowed to start the reconstruction..."

The people housed in the container villages in Petrinja and Glina have drawn our attention to the insufficient and inefficient communication between the authorities and the earthquake victims. Many people have lost trust in the institutions and feel that they have been forgotten. They lack high-quality, professional, verified and personalised information about the reconstruction of their homes and about housing provision. The initiative SOS Zagreb states that the earthquake victims in Zagreb share similar sentiments. According to their information, the co-owners or co-owner representatives who have

access to online information and whose professional and personal life allows them enough time to "research" the regulations are the only ones who are informed about the opportunities and the advantages of the reconstruction undertaken by the owners. They add that one of the largest building managers has not been active enough in communicating with the citizens, co-owners and tenant representatives about the reconstruction undertaken by the owners, and the citizens were left to bear the sole responsibility. We therefore repeat our recommendation to the MPPCSA. We also recall the recommendations we issued to the MPPCSA and to the City of Zagreb's authorities back in 2021: the communication with the citizens has to be clear and adapted to different ages, education levels, and the citizens' financial situations, and it must not be confined to electronic communications or the Internet. It would therefore be important to enhance the cross-sectoral teams comprising of state and/or city officials

so that they could offer more precise information to the citizens, and assistance in the processes related to reconstruction (interpretation of special regulations relating to reconstruction and construction, property matters, etc.) at the existing information centres, and through organising a variety of local/neighbourhood public discussions and/or citizen assemblies. Also, until the residents of the container settlements are provided with more adequate housing, periodic visits should be organised to the container settlements to provide simple and specific information about the individual cases, buildings undergoing reconstruction, and the provision of housing. Efforts should also be invested in clear and simple communication with the local media. For this purpose, we recommend that the MPPCSA prepare an infographic describing the procedure of reconstruction as clearly as possible, as well as leaflets containing instruction about the necessary steps, deadlines, the required documentation, and the manner of accessing legal remedies in individual proceedings, which should be available both online and offline.

Recommendation 4 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets to: clearly define and communicate the deadlines and scopes of reconstruction of family homes and apartment buildings in the areas affected by the earthquakes

Recommendation 5

For the Ministry of Physical Planning, Construction and State Assets to: prepare an infographic describing the reconstruction procedure as clearly as possible, and prepare leaflets containing instructions regarding the steps, deadlines, necessary documentation, and the manner of accessing legal remedies in individual proceedings

Recommendation 6

For the Ministry of Justice and Public Administration and the Ministry of Regional Development and EU Funds to: ensure additional funding for the civil society organisations providing free legal aid in the areas affected by the earthquakes

The Ombudswoman also received a number of inquiries about legal aid. Many earthquake victims, especially in those in the rural areas, are in a particularly vulnerable position due to isolation and/or other circumstances such as age, disability or health status, and we recommend considering possibilities for extra financial support to civil society organisations providing free legal aid in the areas affected by the earthquakes, including through the revitalisation programme, in cooperation with the Ministry of Justice and Public Administration, and the Ministry of Regional Development and EU Funds.

Temporary housing in inadequate facilities

The third burning issue faced by many of the earthquake victims results from the fact that they have been staying in emergency crisis housing for years. Many of them have spent their third winter in containers and other forms of temporary housing, which restricts their right to decent housing and to family life and home.

Most of the container settlements' residents are older persons of disadvantageous financial and social status. Most are singles who do not know how to use computers, which means that contacts and support are of tremendous importance to them.

The media, too, have reported about the difficult living conditions in the containers, drawing special attention to older persons, children, and are at risk individuals. The news about the death of a two-month old baby in the container settlement in Petrinja in December 2022 attracted lots of attention. According to the media, immediately following this tragic event, the baby's family was offered relocation to one of the 14 available and habitable houses. The Ombudswoman recommended urgent relocation of the families with underage children to more adequate housing, and extra effort of the staff of the former social welfare centres and the Croatian Red Cross in the field, in this specific case and in other container settlements as well. The statements we received indicate that the MPPCSA issued the decision on reconstruction for the family in question. In October, the MPPCSA suggested inviting the interested owners of undamaged houses in Sisak, Petrinja and Glina for a meeting, with the intention of leasing the houses, according to the Ministry's account. Owners of 14 suitable homes contacted the authorities in Petrinja, and these homes were offered to all residents of the container settlements, including the deceased child's family, which is currently being relocated. However, the statement does not make it clear if the family was offered relocation before or after the child's death.

According to the Programme for the Provision of Housing to the Residents of the Mobile Housing Units, dated February 2023, 5,820 persons, including 5,753 persons from the SMC, Karlovac and Zagreb Counties, are living in 2,122 containers in the yards of their family homes. 438 persons are living in 297 containers in 11 container settlements in Sisak, Petrinja and Glina. If the present pace of reconstruction does not pick up, many of them will doubtlessly wait for years to return to their own homes. For this reason, finding adequate housing for them has to be a priority. The Ombudswoman therefore repeats our recommendation issued to the MPPCSA and to LRGUs to urgently find more suitable housing for the citizens residing in the containers. Under the new Programme of the Reconstruction Measures for the Buildings Damaged in the Earthquake, the status of all housing beneficiaries is to be identified and they are to be provided with adequate housing by 1 November 2023, which the Ombudsman will be monitoring.

Recommendation 7 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets and to local and regional self-government units to: urgently find more suitable housing for the citizens residing in the container settlements

In the city of Zagreb, some of the earthquake victims are housed at the Arena Hostel, or in private apartments, while 67 persons are housed in the containers. In November 2022, the Ombudswoman again visited the Arena Hostel, where 163 victims of the Zagreb earthquake were staying at the time, according to the data provided by the MPPCSA. Most of them were older persons or members of families that have split up. These people faced a difficult existential and psychological situation, in part due to the lack of the information on reconstruction. They were also concerned about how long they would be able to remain at the Hostel, especially since the Hostel served as a replacement for a nursing home for some of them. The Ombudswoman issued a recommendation to the MPPCSA, drawing its

attention to the need to periodically review the beneficiaries' needs, given that the City of Zagreb has in the meantime provided city-owned apartments to some of them. The Ombudswoman also recalled her recommendation issued in June 2021 regarding the formalisation of the status of the earthquake victims housed at the Hostel by issuing them with documents specifying the time period in which they will be provided with housing, and available legal remedies.

Vulnerable groups and access to rights and services

According to the data compiled by the Coordination of Humanitarians in the SMC in the summer of 2022, around 90,000 persons in the SMC were in need of support. A combination of poverty, negative impacts of the demographic processes (population ageing, economic emigration) and previous traumatic experiences has resulted in multiple issues for many of the local inhabitants, and vulnerable groups in particular. Many of these people depend on social welfare and/or disability allowances, irregular incomes, and pensions, which were lower than HRK 2,000 for a third of the persons participating in the survey. A fifth of the residents of the affected areas are older than 65, and the damage sustained by the infrastructure and the commercial buildings in the earthquakes has led to a loss of jobs. The earthquake has made healthcare services even more inaccessible to the residents of the SMC. A total of 13,750 children were directly affected by the earthquake. 50 schools have been declared temporarily or permanently unfit for use, and the remaining schools are struggling with overcrowded conditions and overloaded teachers. The Coordination of Humanitarians also states that many of the children lack adequate studying equipment and resources (Internet access, IT equipment, handbooks and a separate room where they could study).

The assessment of the earthquake's victims' needs has shown that all forms of crisis support remain as necessary today as they had been in the immediate aftermath of the earthquake. However, the financial support provided and the activities undertaken by the public service providers and humanitarian organisations and civil society organisations in the field have decreased. More than 80% vulnerable individuals participating in the survey said that they still suffered from psychological consequences, mostly anxiety and insomnia, and more than 70% said that they lacked adequate access to information, which we have already discussed.

Recommendation 8 (reiterated)
For the Croatian Red Cross to: continue implementing psychosocial support programmes in organised housing, and where possible also at the earthquake's victims' homes

On the other hand, according to the CRC, earthquake victims like to participate in organised social activities, but there are no adequate capacities for their organisation in smaller villages, which results in children feeling lonely and isolated from their peers. Older persons complain of loneliness too, as their family members live in major cities or foreign countries. Mobile psychosocial support teams are therefore extremely important to them in such circumstances. These teams also provide information regarding reconstruction. Local Red Cross societies have applied for the Phase 3 of the "Make a Wish" tender or are cooperating with the organisations implementing this project. Through the project, home care providers visiting older persons and persons with mobility impairment at their homes ensure the availability of a variety of services, and reduce the risk of social isolation.

"Dear Madam, I am writing to you with great sadness and bitterness, and anger as well, to be honest. This is about a lady from Glina whose house received a yellow label after the earthquake, and is in danger of collapsing. They have been waiting for the geologists to inspect the location since the earthquake. The lady in question was provided with a housing container in November only thanks to Marin Miletić and Tomo Medved. She had to use the bathroom and get water from another home, which has been sold in the meantime by its owner. As her container had been placed on someone else's land, she was forced to call the authorities to relocate the container to a location next to her home in the village Maja in Glina. The worst thing is that she has no water there. There is a well in the yard, but it has been damaged, and it is leaking. The fire department comes and fills it with six cubic meters of water, and in half an hour nothing is left. She asked the authorities in Glina for a water container on 2 July, but has still not received it. Her nephew lives in the same yard with his wife and three children, ages of seven, five and one. Tell me, how can these people live without water? Please, help them get access to water. I will give you the contact details. Thank you for your understanding..."

The Ombudswoman continued to keep track of the problems the citizens face in accessing safe water for human consumption, and has investigated the complaint lodged on behalf of the above woman from Glina as well. After the initial difficulties she faced in getting and setting up a container, in July 2022, at the time of severe drought, she faced a water supply issue due to a damaged well, of which we informed the competent authorities. The complainant was provided with a water container, but it broke, flooding her housing container. We contacted the authorities again, and the woman was provided with housing in the container settlement, where she reported that she was "finally warm after a long time".

According to the analysis prepared by the Coordination of Humanitarians mentioned above, approximately 20% of the affected population is still dependent on well water, the quality of which still varies. The fire department provides water, but many of the wells are leaking, and the water leaks into the ground. CRC continues to provide well repairs, prioritising households that have not been hooked up to the public infrastructure, and that practice agriculture. However, these repairs often do not solve the problem, as subsequent tests show that the water is not safe for human consumption after all. Bottled water is therefore distributed on a daily basis. According to the CRC, the demand for bottled water in 2022 has not declined compared to the previous year, and they expect this trend to continue.

The construction of water supply facilities would provide a long-term solution, having in mind the geological changes that have affected the availability of water in individual springs, as well as the effects of climate change. Projects in the areas affected by the earthquakes have therefore been included in the indicative list of projects to be financed under the National Recovery and Resilience Plan 2021-2026. The prioritisation of solutions for public water supply issues in the SMC in the Multiannual Programme for the Construction of Municipal Water Supply Facilities for the Period Ending with 2030 is an encouraging development. These projects concern PWSPs in Sisak, Petrinja, Glina, Hrvatska Kostajnica, Topusko and Dvor. More information is provided in the chapter on water services.

In this context, we would like to draw attention to the progress made in the construction of the water supply system leading towards the village of Župić in the Petrinja area, from where we received a complaint regarding water availability. The statement given by the PWSP shows that the project for the connecting waterway for the villages Križ Hrastovački – Župić was produced in May 2022, the public procurement procedure was completed, and a contract was signed for the production of the project documentation and the issuance of a construction permit. After this, funds will be requested from Hrvatske vode to co-finance the construction.

The Ombudswoman continues to receive complaints regarding the inability to exercise the right to write-off of electrical power claims in line with the Croatian Government's conclusions about the implementation of the write-off of claims and charges for electrical power and heat delivered to end customers in the areas affected by the earthquakes. Most complaints concerned delivered bills that were later proven to have been delivered in error. Having in mind not only the impacts of the earthquake, which led to further impoverishment of many people whose livelihoods were already at risk, but also the inflation and the disruptions in the energy market, we recommend to the Croatian Government to continue implementing the measure concerning the write-off of the claims for energy in the area where a natural disaster has been declared.

Recommendation 9 (reiterated)

For the Croatian Government to: continue implementing the measures concerning the write-off of the claims for energy in the area where a natural disaster has been declared

A family residing in the district of Donji Čehi in Zagreb, whose home was damaged in the Zagreb earthquake, also faced difficulties accessing electricity. Following the actions taken by the Ombudswoman, the family signed a contract on the use of a housing container free of charge with the City of Zagreb in July 2021. In September 2021, the family contacted us again, complaining of difficulties with connecting their container to the electrical grid. The situation was resolved in November 2021. In April 2022, the family contacted us again to inform us that they have still not been connected to the water supply system. The competent PWSP explained that they have still not been connected due to previously incurred debts and enforcement proceedings. Since we received no answer to the question if the water supply service provider was acting in compliance with the Water Services Act, and if they had made sure that the family was provided with the minimum amount of water, in November 2022, we suggested that MESD and SIRC perform an inspection. We have still received no information about its findings. In addition, the family contacted us again in October 2022, informing us that the power supply to their container has been cut off due to overdue bills. We contacted the City of Zagreb again, having in mind the Conclusions of the City Assembly about the payment of bills and reimbursement of the amounts of paid energy bills to the citizens who have been provided with housing containers after the earthquake in Zagreb. Under these Conclusions, the City authorities pay the electrical power distributors' bills for the citizens with whom the City has signed contracts on the use of housing containers free of charge, or otherwise reimburses the citizens for the amounts of the bills they paid as per the list of housing container users. The City explained that the connection of this container to the grid was not even registered in their list, and that it was questionable if the complainant had even been aware of the right to the write-off. We therefore recommend to the City of Zagreb to pay special attention to the earthquake victims who have been provided with temporary housing in containers, and provide all the help they need in exercising their rights.

Recommendation 10

For the City of Zagreb to: pay special attention to earthquake victims who have been provided with temporary housing in containers, and provide the help they need in exercising their rights

2.2. The right to good governance

Within EU law, the right to good governance is guaranteed under Article 41 of the Charter of Fundamental Rights of the EU. In national law, this right is guaranteed by the Constitution and a number of acts, such as the General Administrative Procedure Act, and the State Administration System Act. Croatian public administration bodies are bound by the EU's universally accepted principles of good governance, such as openness and transparency, citizen participation, accountability, efficiency, effectiveness, and coherence.

Complaints received from the citizens have provided us with information about the failure of various public administration bodies to respect the principles of good governance. The chapter on the right to good governance was included in our 2021 Report for the first time.

In the complaints received by the Ombudswoman in 2022, the citizens often pointed to the problems of long duration of the proceedings undertaken by public administration bodies, their administrative silence, and excessive formalism in their actions. Citizens also complained of the unavailability of the civil servants and the understaffing of the public administration bodies, as well as their failure to answer calls and reply to submissions, which impaired the citizens' contacts with the representatives of the authorities, and their efficient provision of services to the citizens. The complaints also drew attention to the unethical conduct of some civil servants, and possible corruption.

"Please, use you position and your influence, all your socially and politically relevant contacts in Croatia, and electronic and printed media to draw attention, time and again, for the umpteenth time, among all other much more serious problems troubling the Croatian society, to this problem, as irritating as dandruff: the unavailability of Croatian institutions to Croatian citizens, even for an ordinary phone call or e-mail."

The citizens contacted us, asking how to exercise their rights in certain proceedings, and which institutions they should contact in this respect, since they sometimes do not understand the competences of the various authorities and their complex procedures and regulations written in highly specialised language, which are difficult to understand without clear instructions.

The MPPCSA informed us about the implementation of our recommendation presented in the 2021 Report to develop a brochure on the GAPA for the citizens, and make it available in the electronic and the printed form to all state administration bodies and LRGUs. Under the project "Further improvement of the monitoring of administrative actions and decision-making (GAPA III)", the MJPA developed a brochure containing general information about the GAPA, in addition to information about the project's results. The brochure was published on the Ministry's website, and distributed to the public law public law bodies in the electronic and the printed form. The State School of Public Administration informed us about the implementation of our recommendation to introduce a basic and an advanced workshop module on the implementation of the GAPA. In 2022, the School expanded its existing workshops with the modules "E-learning on the GAPA's IT System" and "Amendments to the General Administrative Procedure Act". The Ombudswoman welcomes the above activities, whose intention is to improve the citizens' understanding of the ways to exercise their rights, and to educate public law bodies civil servants.

Acting within her mandates, the Ombudswoman promotes good governance in public administration bodies, encouraging the institutions in the public sector to allow the citizens to exercise the highest

possible level of their rights, for instance, by reducing excessive formalism, increasing accessibility and openness, listing the services they provide, and describing the procedures to access these services in an easy-to-understand way.

We would like to point out that the public administration bodies failed to deliver the requested information that we needed to investigate the citizens' complaints on several occasions in 2022 and earlier. In some cases, we sent them up to four reminders.

The citizens also contacted us about insufficient or incomprehensible information provided by the competent public law public law bodies, which often cite the provisions of the relevant regulations in their replies, without explaining their enforcement in specific situations. One such complaint concerned a citizen who wrote to the competent ministry, asking for an explanation of the provisions of the Social Welfare Act he did not understand, and the Ministry replied by citing the exact same provisions. Citizens also drew our attention to the disparities in the interpretations of the regulations provided by the competent authorities, and in their actions, for instance, in cases pertaining to double taxation of foreign workers. Citizens also complained to us about the unavailability of the public law public law bodies, their failure to reply to submissions, and the poor organisation of their office hours.

Recommendation 11

For the Ministry of the Interior to: organise the office hours of police administrations/stations providing administrative services so as to receive clients after 4:00 pm on at least one day of the week

One complainant asked us to help her change the office hours of a police station, considering that the citizens who work by 4 pm are unable to register their place of residence because the working hours of the relevant service also end at 4 pm.

We received a substantial number of complaints dealing with a failure to reply to and follow up on complaints filed by the citizens to SIRC, which is certainly due to the insufficient number of inspectors, among other reasons, as pointed out by the Chief State Inspector. Considering SIRC's role in protecting individual rights as well as the public interest, ensuring sufficient capacities is one of the prerequisites for its effective performance.

A significant number of complaints dealt with the long duration of the proceedings undertaken by the public administration bodies, mainly administrative proceedings. Some authorities acted on the citizens' requests and issued decisions only after we had launched an investigation. Citizens also reached out to us, for instance, complaining that the requests for refunds, procedures for the legalisation of buildings, or proceedings launched to establish a construction plot, were taking a long time to resolve. In such cases, we informed them about the option of filing a complaint to the second-instance authority, and initiating an administrative dispute. At the same time, we warned the authorities that practiced "administrative silence" that they need to abide by the timeframes laid down in the GAPA, and recommended that they inform the party concerned about the reasons why these timeframes were exceeded, if this occurred due to extraordinary circumstances. Some proceedings dragged on beyond any reasonable timeframes, such as proceedings for asset recovery or the provision of housing, which occasionally take up to 20 years. In such cases, the problem often arises, for instance, because there are not enough apartments for everyone who is entitled to housing provision.

A high administrative burden has been placed on the citizens when initiating and managing the proceedings that are required to have their individual rights recognised, even though the public law bodies are able to obtain some of the needed documentation acting of their own motion. To reduce the administrative burden for the citizens, we participated in the public consultations in the process of the adoption of the Ordinance Regulating the Method for Establishing if the Conditions for Debt Write-off Have Been Fulfilled. Under the proposed ordinance, beneficiaries applying for debt write-off were

required to submit to the Institute of Social Welfare extensive documentation that the Institute either already had, or was able to obtain acting of its own motion. We therefore suggested that the beneficiaries should only be required to submit documentation that the Institute does not already have or that needs updating, since most of these applicants are existing beneficiaries who have already submitted their documentation when their right to the guaranteed minimum benefit was recognised. The Ordinance that entered into force in early 2023 only requires the beneficiaries to submit the documentation that the Institute does not have or is not able to obtain.

"We are therefore reaching out to the Office of the Ombudswoman as the last instance responsible for the protection of the citizens' human rights, wondering if it is really possible that persons in need will lose the assistance that they need, and will not be able to exercise a right vested in them by the law, because of a bureaucratic action? Is the Government punishing pensioners who are illiterate and very old, and lack a living income, for their lack of awareness and information?"

The case of an illiterate and ailing old woman, aged 94, with mobility issues, who lived alone in a rural area, and who lost the so-called COVID-19 allowance due to bureaucratic hassles, is an example of the failure of the authorities to provide adequate information to the citizens about their legal obligations and the effects of not fulfilling them, and also illustrates formalistic interpretation of the regulations. This woman had not known that she needed to register her place of residence again after her place of residence had been deregistered by the authorities, acting of their own motion, when the house number of the house she had lived in for years was changed. As a result, she eventually lost essential financial assistance. According to the CPII's interpretation of the fulfilment of the conditions related to the place of residence, this woman could not receive the COVID-19 allowance, even though she had received her pension at that address for years. After we found that discrimination was involved in this case, and issued our recommendation, the MI later informed us that an unregulated place of residence does not mean that the person did not live at a certain address, and that citizens could, under the GAPA, use other fact-finding means to prove that they had lived at an address for an uninterrupted period of time, in addition to a certificate of permanent residence.

The principal objective of the e-Citizens (e-Građani) system is to provide the citizens with a means of fast communication with the public authorities, and fast and efficient resolution of applications. The number of e-Citizen system users is increasing: according to the data compiled by the Central State Office for the Development of the Digital Society, the system had more than 1.7 million users in late 2022, and the number of public e-services provided through the system increased to 100.

The 2032 Digital Croatia Strategy, adopted in 2022, defines its second strategic goal as "Digitalised Public Administration", which is supposed to be accomplished, among other ways, by digitalising all key public services, promoting the digital services, and providing customer support. However, in spite of the many advantages of digitalisation, particularly quicker action of the public administration, we must also make provisions for the citizens who are unable to keep up with these changes due to objective reasons, who should have access to alternative channels of communication with the public authorities.

The 2022 amendments to the GAPA further encouraged electronic communication and the digitalisation of administrative and other proceedings, lowering the costs both for the citizens and the public law bodies, and making the proceedings more efficient.

Recommendation 12

For the Ministry of the Regional Development and EU Funds to: stop using the "fastest finger" method in granting funds, and instead evaluate and choose the best projects

The digitalisation of the public administration does not always result in the best and fairest practices, as the use of the "fastest finger" method in the tender organised by the Environmental Protection and Energy Efficiency Fund for European and national grants for renewable energy had demonstrated. This method grants the funds to the fastest applicants, but not necessarily to the best projects, because applications are considered in the order they are received, until the funds run out.

The media reported about a number of corruption affairs in 2022. Even though Croatia's ranking in Transparency International's 2022 Corruption Perceptions Index had improved by six places compared to the year before, Croatia is still among the lowest-ranked EU member states, ahead of Romania, Bulgaria and Hungary. In the special Eurobarometer poll dealing with corruption in 2022[i], 94% respondents said that they felt corruption was widespread (compared to EU average of 68%), and 60% said that corruption affected their own everyday lives (compared to EU average of 24%).

Anticorruption legislative initiatives are therefore welcome. For instance, as a part of the anticorruption efforts, the Croatian Parliament amended the Act on the Government of the Republic of Croatia in 2022, lifting the immunity of the members of the government suspected of acts of corruption that are prosecuted ex officio, and these proceedings will not require previous approval from the Government. The new Whistleblower Protection Act also entered into force, reinforcing the legal protections provided to whistleblowers, and simplifying the procedure for reporting irregularities, which will be discussed in more detail in a separate chapter. Amendments to the Act on the Right of Access to Information reinforced the position of the Information Commissioner as an independent institution that contributes to the anticorruption efforts by protecting and promoting the right to access to information held by the public authorities.

Strengthening interinstitutional integrity systems and adopting codes of conduct can help supress corruption and conflicts of interest. For this reason, we issued a recommendation to the Croatian Government and the Parliament in our 2021 Report to adopt codes of conduct in line with the GRECO recommendations, and we issued the same recommendation to LRGUs that currently do not have such codes in place. The Code of Conduct for the Government Officials in Executive Authorities and the Code of Conduct for the Members of the Croatian Parliament were adopted in 2022. Many larger cities have informed us that they have adopted codes of conduct. In this respect, we would like to remind that the Act on the Prevention of Conflicts of Interest, which entered into force in late 2021, obligated representative bodies of LRGUs to adopt codes of conduct applying to the members of their representative bodies within six months.

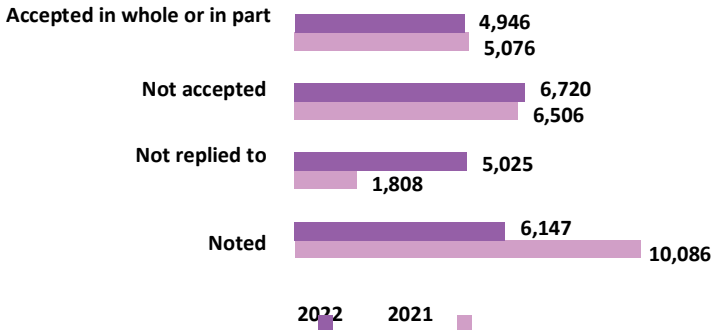
The need to adopt codes of conduct in all segments of the public administration is also visible from the citizens' complaints regarding unethical actions by civil servants, rude and impolite communication, and denial of assistance and access to information.

It is important to involve the interested public in decision-making processes so as to give the citizens and the civil society the role of active partners in the development of public policies, and the adoption of laws and other regulations. Even though the results of the OECD's 2022 Better Regulation Practices across the European Union report rank Croatia very high in terms of holding public consultations in relation to other EU and OECD member states, there is still room for progress and for more efficiency in implementing public consultations.

According to the data compiled by the Legislation Office, 1,028 consultations were held in 2022 on the e-Savjetovanja (e-Consultations) portal, with contributions from 6,530 natural persons and legal entities. Out of the total of 22,838 comments received, 4,946 (21%) were accepted in whole or in part,

6,720 (29%) were not accepted, 6,747 (29%) were noted, and 5,025 (22%) were not replied to. The number of the comments that were not replied to increased substantially compared to 2021, when a little under 8% comments received no replies. Public authorities should therefore ensure efficient implementation of the public consultations, not only encouraging citizens to participate with their opinions and proposals, but also providing explanations for the reports about their proposals.

COMMENTS RECEIVED IN E-CONSULTATIONS



According to the data compiled by the Legislation Office, the Croatian Government's 2022 Legislative Activities Plan included a total of 195 bills, of which 123 (63%) have been adopted, the highest percentage so far. Croatian Government sent 168 bills into the Croatian Parliament, of which 42.9% were under the ordinary legislative procedure, with two readings. As many as 57.1% bills were sent under the urgency procedure due to Croatia's accession to the euro and the Schengen area. Following the ordinary legislative procedure is important in order to allow the interested public to adequately participate in the consultations. It is also important not to hold the consultations in periods when many people take their annual leave.

Recommendation 13

For professionals responsible for the public consultations to: reply to more comments submitted during the e-consultations, and accompany replies with explanations

The professionals responsible for public consultations produced a prior impact analysis when drafting all 168 bills, but they failed to identify their direct human rights impacts in most cases, as had been the case in the previous years.

Recommendation 14

For the Legislation Office to: improve the e-Consultations portal in cooperation with the Central State Office for the Development of the Digital Society by adding the functionality of automatic notification of users about consultations periods being extended or cut short

When the consultation period for a by-law proposal was cut short without prior notice to the users of the e-Consultations portal, we suggested that the Legislation Office, in cooperation with the Central State Office for the Development of the Digital Society, improve the e-Consultations portal by adding the functionality of automatic notification of users about consultations periods being extended or cut short. We were informed that our proposal is going to be considered as part of the analysis of the existing state of the e-Consultations system. The e-Consultations system improvement project, launched in 2022, which includes the expansion, upgrade, and improvement of public consultations in legislative procedures, implemented by the Central State Office for the Development of the Digital Society, is an opportunity to implement these changes.

The number of complaints were received about the actions of local and regional self-government units in 2022 was higher than in 2021. Most dealt with failures to call elections for local committees, and difficulties in their work resulting from the lack of cooperation with LRGUs.

Under the Local and Regional Self-Government Act, local committees are set up by virtue of LRGU statutes as a form of direct participation of the citizens in the decision-making regarding local tasks with direct and daily impact on their life and work, and the LRGUs that have set up local committees are obligated to hold elections for members of the local committee councils, which are called by representative bodies. Even though local self-government falls within the competences of LRGUs, who make the decisions about their own acts of general application, local committees are a participative democracy mechanism that allows citizens to participate in decision-making on local level. It is therefore important to hold elections for members of the local committees on time, and to ensure their continual activity and adequate cooperation with the representative and the executive bodies of the LRGUs.

2.3. The right to health

The right to health comprises several interconnected elements: availability, accessibility, acceptability, and quality. Under Article 12 of the International Covenant on Economic, Social and Cultural Rights, which Croatia has ratified, the state has an obligation to ensure adequate healthcare. According to the General Comment No. 14[ii] given by the UN's Committee[iii], health is a fundamental human right indispensable for the exercise of other human rights. To fulfil its obligation, the state must ensure 1) sufficient availability of facilities, goods and services across the country, including the functioning of the public health system; 2) equal accessibility of facilities, goods and services to everyone, without discrimination, including their physical accessibility, affordability, and accessibility of information); 3) acceptability of facilities, goods and services, and their compliance with the ethical and cultural requirements; and 4) good quality and scientific and medical adequacy of facilities, goods and services.

However, many challenges stand in the way of the exercise of the right to health in Croatia. The citizens have drawn our attention to these challenges in their complaints pertaining to healthcare and health insurance, which account for the largest part of the total number of the complaints.

The long-awaited reform of the healthcare system was launched in 2022 with the presentation of the draft proposal of the Act on the Amendments to the HA, and the draft proposal of the Act on the Amendments to the Compulsory Health Insurance Act. Even though the system is in dire need of a reform, which has been announced for a long time, the above proposals, as the most important proposals in this area that mark the beginning of the legislative reform, are mostly focused on organisational changes. It remains unclear how they are going to contribute to the set targets that deal with ensuring the exercise of the right to health. The opportunity to put the patients in focus while at the same time ensuring better working conditions for the medical professionals was missed with this reform.

This chapter provides an overview of the challenges encountered in the provision of healthcare, and the issues the citizens face when using health insurance. It also reflects on the challenges faced by cancer patients, and the importance of strengthening the palliative care system. Finally, it draws attention to the impact of the COVID-19 pandemic on the access to healthcare in 2022.

2.3.1. Healthcare (availability, accessibility, acceptability and quality)

Life expectancy is an objective indicator of how the right to health is being exercised. According to the *2021 Overview of the Health and Healthcare Situation in Croatia*, the average life expectancy in Croatia is 77.8 years, three years behind the EU average.

This is partly because Croatia has one of the highest cancer mortality rates in the EU. At the same time, COVID-19 became the third leading cause of death in 2020. Also, public health interventions are underdeveloped. The number of deaths that could have been avoided through timely and effective healthcare was significantly above the EU average. Primary care is fragmented, and seems underutilised compared to hospital care and the care provided by polyclinics and consultants. Furthermore, the Overview indicates that the waiting lists for secondary and tertiary care have become even longer due to the COVID-19 epidemic.

In addition to the pandemic, the disastrous earthquakes of 2020 have also impacted the availability of healthcare, as shown by the data compiled by the Coordination of Humanitarians of the SMC. In the summer of 2022, the Coordination once again conducted a survey among the citizens from the socially

vulnerable groups about their experiences. Their replies showed that 70% respondents have difficulties buying the medicines they need due to their low income and risk of poverty. 40% have difficulties with the accessibility of the public transport and consequently of the services they need, including the availability of the healthcare services.

The rate of the self-reported unmet healthcare needs due to geographical distance is higher than in any other EU member state, and among older persons it is higher than the EU average. Also, the rate is much higher among lower income citizens, which is indicative of the unequal availability of healthcare depending on one's income status.

Although the COVID-19 epidemic put them in the spotlight, the issues in primary healthcare, especially family medicine, have been present for years. Data compiled by the Croatian Medical Chamber (CMC) point to a labour shortage in healthcare in Croatia, coupled with an ever-increasing scope of work. At the moment when we were drafting this report, 732 primary and family medicine practitioners (one in three) were over 60 years of age. An additional 500 physicians were over 56 years of age. In other words, 55% family medicine practitioners in Croatia will retire within ten years. At the same time, the average number of patients per physician remains very high.

The existing Public Primary Healthcare Network has not changed since 2015. In addition to vacant posts, the network is no longer aligned with the actual population numbers, and a new Network has to be developed urgently. A plan for the selection process for family medicine residencies needs to be developed as well, since the number of advertised and planned residencies is not aligned with the Ministry of Health's five-year plan. Considering the lack of interest in this field, the CMC and the CCFM have drawn attention to the need to encourage young physicians to pursue a specialisation in family medicine to prevent the Network from collapsing.

Gynaecology and obstetrics, paediatrics and dental medicine also face physician shortages. According to CHIF, 125 teams are lacking in general/family medicine (most of them in the Zagreb County); 52 teams are lacking in paediatrics (most of them in the City of Zagreb); 61 teams are lacking in gynaecology and obstetrics (most of them in the City of Zagreb); and 211 teams are lacking in dental medicine (most of them in the Osijek-Baranja County).

According to the *2021 Overview of the Health and Healthcare Situation in Croatia*, Croatia is also lacking key indicators of the quality of primary healthcare that are available in other EU member states, such as hospitalisations due to avoidable chronic illnesses, including chronic obstructive pulmonary disease, congestive heart failure, diabetes and asthma.

The complaints we received in 2022 also pointed to the unavailability of emergency healthcare, especially with respect to integrated emergency hospital admission.

"I came to the check-in window and told them that I was in great pain from my wisdom tooth growing, which had become unbearable. I told them that I was COVID-19 positive, but that I had called ahead and that the person on the phone had promised I would be examined, and would someone at least try to help me. I was told, however, that they had not had a dentist for two years now, and that they could do nothing for me. I asked them nicely to let me see a doctor to at least give me a strong painkiller, but they started yelling at me, telling me that they did not have a dentist, and that I had no business being there. I went out and called the hospital again. I asked them to put me through to the ER. I spoke to a doctor, who promised to see me, but I had to get checked in first."

In this case, the Committee of the CMC found that the Medical Code of Ethics and Deontology had been breached, and that the complainant had been denied medical care without a valid reason. Eventually, the director of the hospital apologised to the complainant.

We received other complaints dealing with problems related to adequate healthcare in urgent admissions and a denial thereof. Some of these complaints concerned senior patients whose symptoms got worse for this reason.

We opened an investigation to establish the circumstances of an incident in which an islander miscarried while attempting to reach a mainland hospital. This situation is indicative of the problem of unavailability of healthcare on the islands, which we have drawn attention to in several annual reports. The problem of medical transport from the islands was recognised in the National Island Development Plan 2021-2027. According to the plan, depending on the situation, helicopters, ferries, boats with whom contracts have been signed for emergency medical transport, and coastguard and port authority boats are used to transport patients requiring urgent care from the islands to the mainland, as are police patrol boats, which are not suited for this type of transport. Even though the Ministry of Health has been working for years to buy high-speed boats and set up an emergency helicopter and telemedicine service, and develop a mobile pharmacy system, this has not yet come to pass.

The Ombudswoman launched proceedings in several cases that have been featured in the media in 2022.

We launched proceedings after the Director of the University Hospital Centre Zagreb appeared on the national television, where he disclosed confidential information about a patient that is protected by medical confidentiality under the Medical Practice Act. During his television appearance, the Director made speculations about the patient's surname, and disclosed information about her medical condition and treatments. He also disclosed information about the number of children the patient had given birth to, and downplayed the errors made in the treatment of this patient, and their effects. In early July, the Committee for Medical Ethics and Deontology with the CMC concluded that a breach of medical ethics had been committed, that the patient's dignity had been violated, and that grounds existed to take disciplinary action before the CMC's Court of Honour. Even though we requested the MH to initiate a health inspection in late May, and the CMC issued its opinion in early July, the MH has still not informed us about its findings, and this investigation is therefore still in progress.

In two high-profile cases, persons who sought healthcare, or their loved ones, shared their experiences and personal information with the public. These cases concerned Ms. Mirela Čavajda and Mr. Vladimir Matijanić. These two cases raised a number of questions about the availability, quality and timeliness of healthcare, as well as the actions taken by the healthcare system to follow up on allegations of malfeasance and/or violation of patients' rights. These two cases present us with an opportunity to investigate individual violations and protect the rights of specific persons, but also to draw attention to systemic problems using actual examples.

In the case of Ms. Mirela Čavajda, in support of whom a protest rally had been organised in May, the Ombudswoman found that healthcare is not available in cases of termination of pregnancy beyond 22 weeks f following the conception, when termination is legally permitted, since Ms. Čavajda was forced to seek this healthcare service in Slovenia. We also found that a number of errors were made in providing information to the patient. Firstly, she was not informed about the procedure of application for a pregnancy termination after the expiry of 10 weeks following conception (Article 22 of the Act on the Health Measures for the Realization of the Right to Freely Decide on Childbirth). Likewise, she was not informed about the institution where she could receive this service, nor about the rights and procedures for exercising her health insurance rights.

Recommendation 15

For the Ministry of Health to: ensure that information is available to patients requesting termination of pregnancy, and to make healthcare available and accessible in all cases when the termination of pregnancy is allowed under the Act on the Health Measures for the Realization of the Right to Freely Decide on the Childbirth

Recommendation 16

For the Ministry of Health to: develop written instructions for healthcare institutions on the appropriate course of action in cases subject to Article 22 of the Act on the Health Measures for the Realization of the Right to Freely Decide on the Childbirth, and regulate the minimum of information that has to be provided in the decisions issued by the first-instance and second-instance committees

Recommendation 17

For the Ministry of Health to: deliver the requested information and documentation relating to the Ombudswoman's cases to the Ombudswoman on time

Public healthcare professionals did not tell Ms. Čavajda about the possibility of submitting her application to a first-instance committee, some first-instance decisions did not contain the information about the possibility of elevating her application to a second-instance committee, and one decision issued by the first-instance committee, which approved the termination of her pregnancy, as well as the decision issued by the second-instance committee, did not inform Ms. Čavajda where she could receive the service that had been approved. Ms. Čavajda received the information about the possibility of submitting an application and about the other procedural steps from her attorney, which is indicative of serious flaws in the system. Information is often essential in exercising the right to health, and when this information is not available to everyone, the right cannot be considered to be available either.

In addition to the fact that abortion is generally not available to women beyond 22 weeks following the conception, the Ombudswoman also found other discriminatory aspects in the organisation of the system, since this service is less available to women with lower incomes and education levels.

Also, we repeatedly had to ask the Ministry of Health for information during our investigation, because the Ministry did not provide us with complete or timely information. We therefore issued a number of recommendations whose implementation should result in better availability and better healthcare standards for women in similar situations.

The death of journalist Vladimir Matijanić, who sought the healthcare system's help with the complications of COVID-19, was the other high-profile case. According to the specialist opinion issued by the CMC, the tragic outcome in this case was caused by a combination of circumstances, including the absence of COVID-19 antiviral treatment, and the patient's failure to take the treatment for chronic diseases that he was suffering from, and to get vaccinated against COVID-19. One of the most important questions is how Mr. Matijanić's condition would have progressed had he been given antiviral treatment, which was, according to the statement issued by the University Hospital Centre Split, not available at the time. Conversely, the MH claims that the treatment was available, but the University Hospital Centre Split argues that this is not the recommended treatment for COVID-19 not only according to the guidelines issued by the MH, but also according to the international and the manufacturer's guidelines. Such opposing statements lead to mistrust in the healthcare system, as does its reaction to allegations of possible violations of patients' rights.

This case also illustrates the importance of information sharing between different physicians, and their access to different types of patients' medical records. Expecting the patient to be able to provide, at any given time, full information about their health and any conditions that they may be suffering from

places an excessive burden on the patient, especially when the patient is not feeling well and their life is at risk. Instead of expecting this from the patient, everyone involved in the treatment should have access to all of the patients' relevant medical records. This case also drew attention to how the healthcare system handles complaints.

In this specific case, the health inspectors carried out inspections looking into the course of the medical care provided to the patient, and appointed specialists who issued an opinion about the medical care provided to Mr. Matijanić. The case was then forwarded to the CMC for further action, and to the County State Attorney's Office in Split, at the Office's own request. Another question raised by this case was what the conclusions are based on. The opinion issued by the specialists who carried out health inspections contains chronological data based only on the statements given by physicians and other medical professionals. It does not take into account other sources of information, including the audios of phone calls and the testimony of Mr. Matijanić's partner, which we had recommended doing.

The criteria considered by the MH in making the decisions on whether the complaints received from the citizens about the professionalism of physicians will be forwarded to the CMC, and when the health inspectors will carry out an inspection and appoint specialists to issue an opinion as per Article 206 of the HA, which can serve as the basis for further action, remain unclear. According to the information available to us, in case of most complaints filed by the citizens in relation to the professionalism of physicians, the entire documentation is forwarded to the CMC, which is tasked with issuing a specialist opinion. The health inspectors take action under Article 206 of the HA in certain cases only. When we asked them about the criteria, the MH explained that they act on the basis of Article 42 of the GAPA in such circumstances. This article regulates how proceedings are initiated acting of own motion when so required by law or necessary to protect public interest. However, in our opinion, this does not explain the criteria for the decisions on how complaints will be handled.

The system must ensure that the decisions about the patients' complaints are made by specialists with adequate knowledge, following clearly established procedures that guarantee objective and independent procedures and sanctions for possible errors. The opportunity to do this presented itself during the recent amendment of the HA, when the Ombudswoman underlined that the criteria must be defined for when the inspectors will request an opinion from specialists appointed by the inspectors themselves, and when the citizens' complaints will be forwarded to the CMC on the same grounds. Unfortunately, our proposal was not accepted.

Recommendation 18

For the Ministry of Health to: define the criteria for the decision which complaints are to be handled by health inspectors, and which complaints are to be forwarded to the Croatian Medical Chamber, which is tasked with issuing a specialist opinion

Recommendation 19

For the Ministry of Health to: define the scope and methods of work for specialists who are required to perform certain specialist actions related to health inspection tasks

In addition, the protection of the patients' rights and the right to healthcare is regulated by two separate acts.

The right to the quality, availability, timeliness and continuity of healthcare services is protected under the HA, which also protects the comprehensiveness of healthcare, and ensures that healthcare professionals follow the codes of conduct. The citizens may file their complaints to the head of the healthcare institution, the Ministry of Health (health inspection), and the competent medical chamber.

On the other hand, the Act on the Protection of the Patients' Rights (APPR) guarantees that every patient has the right to be informed about the state of their health, their treatments, possible risks and

advantages of the recommended examinations and procedures, the right to access medical records, the right to confidentiality of their medical information, the right to privacy during examinations, and other rights. Under the APPR, county committees for the protection of patients' rights are supposed to make sure that these rights are protected.

Due to this duality, the protection of the right to health is regulated by two separate acts, which means that the procedures, safeguards and authorities also differ, leading to even more uncertainty about redress in the healthcare system.

Recommendation 20

To the Ministry of Health: take adequate action to regularly organise trainings for healthcare professionals at healthcare institutions about the patients' rights, professional conduct and communication with the patients in line with the standards of medical ethics

We received other complaints in 2022 that pointed to inadequate communication between the healthcare professionals and the patients. Both the medical chambers and the county committees for the protection of the patients' rights received complaints about this issue. We therefore drew the Ministry of Health's attention to the importance of good communication between the physicians and their patients, and recommended that the Ministry takes adequate action to regularly organise trainings about patients' rights for health professionals, along with trainings about professional conduct and communication, in line with the standards of medical ethics. Also, communication with patients must be a part of the curriculum of the medical studies.

"Three years ago, a blood vessel burst in my father's eye. Due to his blood being considerably thinned (...), his eye filled with blood completely, and we rushed him to the ER. Of course, this was all happening sometime around midnight. At the ER, as much as they wanted to, the staff could not help him. They did not even have the instruments for an initial examination, and had to use a mobile phone for light. Since Zadar does not have an ophthalmologist (Zadar being a tourist city), they called Split and we took him there. Two weeks ago, a German resident who was in Zadar on vacation accidentally cut his upper palm with an axe while cutting wood. We gave him first aid and took him to the ER at the Zadar General Hospital... where we were told to wait! We waited. The man started to feel ill because he was losing blood. I reminded the staff that the cut was caused by an axe, and informed them that the man was feeling ill. They took him away. They charged him HRK 50 for stitching him up. The experience of getting stitched up by a person who was not wearing a mask (never mind COVID-19) while talking to another staff member and laughing all the while was priceless. As was the shame I felt. In case you did't known, the Zadar General Hospital calls you to let you know what time they scheduled your appointments. If you are unable to pick up the phone, they take it to mean that you are no longer interested in the appointment. They never answer the phone, and they never call you back. You can wait for next month, or you can go to the ER (why not overburden a ward that is barely functioning as it is), or you can pay to have your tests done at a private facility (not that you are paying for healthcare insurance at the same time). I could share some more stories, but I do not have the strength to."

A resident of Zadar complained to us about the organisation and the equipment at the Zadar General Hospital, stating that the ER staff does not have the required instruments, that a wound was stitched up by a person who was not wearing a mask, and who was talking with another staff member during the procedure, and that the citizens are informed about the time when their appointments are

scheduled by a phone call – if they answer their phone. The follow-up on this complaint is in progress.

A cancer patient – a foreign national who was diagnosed with a tumour while staying in Croatia – submitted a complaint to us about the same hospital. She complained about the lack of timely and adequate treatment, since she was not referred to any kind of treatment for more than three months following her surgery. The procedure regarding this complaint is still in progress, but we can already confirm that errors were made in the hospital's actions: the hospital sent the patient's tissue sample to another healthcare institution for analysis as many as 44 days after the sample was taken, even though the diagnosis was life threatening, and the patient was told that she had two months left to live. The tissue sample analysis result was required to define the further course of treatment.

2.3.2. Cancer patients

Problems have been identified in the treatment of cancer patients in the healthcare segment as well. Even though the incidence of cancer in Croatia is on par with EU average, OECD's data indicate that Croatia has the second highest cancer mortality rate in the EU. The Ministry of Health itself states that the prognoses for patients diagnosed with most types of cancer in Croatia are among the worst in Europe.

At the same time, participation rates in breast cancer, cervical cancer and colon cancer early detection programmes are lower than the EU average, and residents of rural areas and citizens with lower income and education levels are at higher risk.

In addition, fast access to cancer treatment is negatively affected by the below-average number of healthcare professionals and radiotherapy centres, and below-average treatment capacities. Also, according to the OECD, the efforts to shorten the waiting time between the cancer diagnosis and the treatment have not been entirely successful. These problems are aggravated by the lack of effective coordination in the healthcare system, which has led to a low five-year cancer survival rate.

The *National Strategic Anticancer Framework covering the period by 2030* was adopted by the Croatian Parliament two years ago, but its implementation has not yet begun in spite of the fact that cancer is the leading public health issue in Croatia, responsible for 27% of the total number of deaths. The healthcare system reform should therefore ensure that everyone has the same right to high-quality care, diagnosis and treatment, equal access to medicines, and equal chances of recovery, regardless of their place of residence.

Recommendation 21
For the Ministry of Health to: urgently start implementing the National Strategic Anticancer Plan covering the period by 2030

According to the association of women suffering from and treated for cancer "SVE za NJU", cancer patients mostly complain of difficulties regarding long waiting lists for examinations and the appointments for surgical procedures, as well as of communication with healthcare professionals. They have also voiced their fear of possible medicine shortages or unavailability of orthopaedic devices resulting from market disruptions. The association has indicated that family members caring for patients with severe symptoms face difficulties in being approved sick leave to care for their loved ones, which we have drawn attention to during the adoption of the new Labour Act. The lack of palliative care beds for the most severely ill patients is another problem.

2.3.3. Palliative care

In addition to medical care provided to patients in the last days of their lives, end-of-life care also includes medical care provided to all patients suffering from a terminal illness or an advanced terminal condition that keeps progressing and is incurable. Palliative care services are defined at the primary and secondary healthcare levels in the HA, and the plan is to expand it to the tertiary level in the new HA.

Given that the demographic data, the ageing population, and the health factors indicate that the need for this type of care is increasing, the Committee for Health and Social Affairs of the Croatian Parliament held a thematic meeting to discuss this topic in October 2022. It is important to understand that palliative care is an integrated care model relying on the healthcare and the social welfare systems.

At the moment, 38,000 persons in Croatia require palliative care every year, and the need for it is increasing progressively. It is estimated that the need for palliative care will increase 20-47% by 2040. Palliative patients make up around 30% of all hospital patients at the moment. To ensure care planning and the best possible quality of life for patients in palliative care, the planning should begin at least during the last year of the patient's life, and not during the last two or three months, as it is often the case.

Data compiled by CHIF indicate that the total number of hospital days in palliative care has been declining between 2019 and November 2022, while the needs are increasing. On the other hand, there is a lack of palliative care beds in some hospitals, for example, the Special Extended Treatment Hospital in Duga Resa, which has a contract for 10 palliative beds, and, according to its own estimate, needs 35 to cover its real needs. The establishment of outpatient facilities for palliative patients to ease the pressure on the hospital wards was among the proposals presented at the Committee meeting, building on the experiences of the outpatient facility pilot project implemented at the Dr. Tomislav Bardek General Hospital in Koprivnica, which achieved outstanding results in one year.

The planned number of coordinators and mobile palliative teams has still not been contracted at the primary healthcare level. According to the data provided by CHIF, there are supposed to be 52 coordinators and 52 mobile palliative teams in the Public Healthcare Network, of which contracts have been signed for 44 and 40, respectively. There is no contract for a coordinator or a mobile palliative team in the Bjelovar-Bilogora County.

The mobile palliative teams are still incomplete, and are often comprised only of a physician and a nurse. The shortage of social workers, psychologists and spiritual counsellors is particularly troubling. They are inadequately compensated for the services they perform because their job complexity coefficients, stand-by mode and specific working conditions have still not been legally regulated. In addition, when patients are discharged from hospitals, they are not given the nurses' discharge summary that is important for follow-up by the mobile palliative team, which is the reason why patients often do not receive adequate palliative care.

According to the data compiled by the association La Verna, patients do not receive adequate palliative care at the primary healthcare level: mobile palliative teams do not visit them because there are too few such teams, or they visit them too late, or they do not get involved on time by the family doctors. Some family doctors even refuse to involve palliative teams in the care of their patients. The association underlined that the members of mobile teams lack supervision and continuous education, which also applies to the staff working in the hospital system. Also, according to the association, hospitals often refuse to admit palliative patients without a comprehensive examination, and do not

take into consideration the best interests of the patient. Patients get discharged from hospitals on Fridays without prior arrangements having been made for primary healthcare, due to which the patients are often in pain during the weekend and lack medical care at home. Calling an ambulance is the only form of help available to them.

Volunteers are an important part of palliative care at the primary level and can be of great help to the patients, for instance, accompanying them to the hospital before and after hospital examinations or their scheduled appointments, but systematic volunteering is underdeveloped. Association La Verna also draws attention to the lack of teamwork and communication between specialists of different profiles in the same institution, as well as between different systems (healthcare and social welfare).

The lack of information about the existence of palliative care services is also a problem. Many patients and families state that no one recommended them to involve a mobile team in the follow-up care.

The communication physicians maintain with the patients and family members, and even with the volunteers accompanying patients on occasion, is also a problem. Physicians do not provide comprehensive and timely information about the patients' condition, diagnosis and prognosis, and sometimes do not respect the autonomy of the patients and their families, and say things to members of patients' families along the lines of: "...who is the doctor here, you or I...", "who told you that you are allowed to use an anti-bedsore mattress..."

Experiences that association La Verna has had so far indicate that children, young adults, and single older persons or older persons who have an elderly and ailing spouse and a weaker social network often face difficulties in access to adequate palliative care.

Complaints received by the CMC concerned patients who were accommodated at nursing homes, special extended treatment hospitals, and palliative care hospital wards, and were related to exercising their rights to house calls, inadequate nursing care, and medical malpractice, mostly in case of senior cancer patients.

Until recently, Croatia had a single palliative care institution (Palliative Care Institution Marija Krucifiksa Kozulić Hospice in Rijeka). The establishment of the Matošić Hospice in 2022, a part of the Split-Dalmatia County Healthcare Centre, with 22 palliative care beds, is therefore welcome news. The expansion of palliative care to the tertiary level in the new HA, and the introduction of palliative care services for the residents of nursing homes by linking the healthcare and social welfare systems in long-term care, as we have recommended in our 2019 Report, is also welcome news. However, the proposed consolidation of healthcare and social welfare through mobile palliative team services does not solve the problem of their availability after hours and on the weekends. We would therefore like to recall the fact that, under palliative care principles, this form of care has to be available 24/7, which is not the case for the time being. We would also like to underline that ambulance teams cannot and must not fill this gap, because they are not trained or equipped to provide palliative care.

Recommendation 22

For the Ministry of Health to: perform an analysis of the activities of mobile palliative teams and palliative teams at hospitals, and take adequate action as required

Recommendation 23

For the Ministry of Health to: speed up the establishment of all forms of palliative care at all healthcare levels to make palliative care accessible to patients 24/7

2.3.4. E-Health

According to the National Healthcare Development Plan 2021-2027, e-health projects and activities have been a priority in Croatia's healthcare system for more than 15 years. In spite of this, information systems have not been fully completed or interconnected in order to facilitate integrated provision of healthcare services centring on the patient, as was evident in Vladimir Matijanić's case, which illustrated the importance of access to different medical records for everyone participating in the patient's treatment, or communicating with the patient.

Recommendation 24
For the Ministry of Health and the Croatian Health Insurance Fund to: speed up the pace of e-health activities to ensure complete and integrated information systems in healthcare

Recommendation 25

For CHIF to: inform everyone who is under the obligation to report periodically to the Fund that this obligation exists, taking into account the fact that not all citizens use the means of electronic communication

According to the association of women suffering from and being treated for cancer "SVE za NJU", the healthcare system is not well-connected or digitalised, because the patients are still required to pick up their test results and take them to other specialists or family care physicians, which puts a great burden on many patients, especially cancer patients and those with mobility issues.

2.3.5. Health insurance

Under the amendments to CHIA, which were proposed in 2022 and adopted in early 2023, insured persons whose compulsory health insurance status was established on the grounds of a one-time registration with CHIF after they had, for instance, completed their education, reached 18 years of age, or terminated their employment, and who are not insured on any other grounds, if they are not registered in the register of the unemployed persons maintained by CES, are under obligation to appear in person before the CHIF once every three months for the purposes of verifying the circumstances based on which their status had been established. If they fail to do so, CHIF, acting of its own motion, ends their compulsory health insurance on the first day after the expiry of three months since their last appearance before the Fund, without issuing a decision.

In our opinion, the obligation to appear in person is inappropriate, because appearing before the CHIF in person once in three months is going to create substantial difficulties for some insured persons. This obligation, which has changed the past practice, can also lead to indirect discrimination of persons on the grounds of their financial or health status. This obligation applies to persons who are not employed, and if they live at some distance from the CHIF's office that they are supposed to report to (or so we assume), the trip to the office could be a financial expense some of them will not be able to afford. The trip to the office will be even more difficult and expensive for the residents of areas where public transport is not available. In addition, the obligation to appear before the CHIF once in three months will be difficult to honour for everyone who faces mobility issues due to health reasons, for whom coming to the Fund's office in person could be an extra financial cost if they require a special form of transport and/or someone to accompany them in order to get around.

Another problem related to this new obligation is the fact that it is an entirely new obligation for the persons who had thus far only had to report to the CHIF once in order to have health insurance. Since it is unclear how the CHIF is going to inform them about the new obligation to report to the Fund periodically, it is possible that these persons are going to be deregistered from the compulsory health insurance due to lack of information. We therefore recommend that the CHIF informs the persons whom this obligation applies to about the new obligation, taking into account the fact that access to information is more difficult for some citizens due to their spatial or social isolation, for example, for residents of the rural areas, or members of the Roma national minority.

Citizens still complain to us about the inability to receive timely information about the avenues and options for exercising their rights due to a lack of awareness and a failure to report the change in their employment/education status on time, which causes them to lose compulsory health insurance. Some citizens also complain that the procedures taken by the CHIF take a long time.

"I lodged an appeal against the decision issued by the Sisak Office of Health Insurance, and I have still not received a reply even though more than 60 days have passed. Please reply. Thank you!"

One person wrote to us complaining that the CHIF's office was taking a long time to issue a decision about the appeal he lodged against the first-instance decision in the procedure of exercising his compulsory health insurance rights resulting from an occupational injury. The complainant lodged an appeal against the first-instance decision within the required timeframe, but the second-instance decision was only issued after 60 days and after we had intervened. Since the timeframe provided by GAPA had been exceeded, we issued a warning and a recommendation to remind all staff working on first-instance and second-instance proceedings that they are required to abide by the provided timeframes, and the CHIF sent them a reminder to this effect.

CHIF told us that they deal with a substantial number of complaints from across RC on a daily basis, and that they process them in the order of priority, depending on the complainant's state of health. Out of the total number of appeals lodged in 2022 in connection with compulsory health insurance rights (2,815), 513 have not yet been resolved.

Even though contact information is listed on CHIF's website, citizens often do not know whom to get in touch with about their problem, and we often receive a variety of inquiries that fall within the direct competence of the CHIF. Sometimes we even receive complaints against the CHIF's administrative decisions, which further delays the reply.

We still receive many complaints about long waits for exams or treatment procedures, and various associations have drawn attention to this problem as well. Croatian Association for Promotion of Patients' Rights argues that this is not a case of long waiting lists, but that it amounts to a denial of access to healthcare.

"I am not sure if this is the right address to write to. If not, please forward my message to Minister Beroš. Every citizen has the right to receive treatment... Or so our children are taught at school. I wonder, however, what kind of treatment they have the right to receive when the system is not working, unless you pay for a test at a private institution, or if you, God forbid, fall sick before your appointment."

In some cases, citizens told us that they got appointments for a healthcare service as far in the future as a year and a half, and they wondered why they were even paying for the compulsory health insurance if they could not receive healthcare services when they needed them. Such long waiting lists force our citizens to seek the services they need from private service providers, and they are understandably unhappy with this situation. Some cannot afford a private provider, which effectively means that they have no access to healthcare.

"PS. I have a message for the Minister of Health:

when you stop allowing doctors to work at private polyclinics during the hours that the people pay them to work at hospital outpatient facilities, the waiting lists will go down. I will give you an example: if you are referred to an otorhinolaryngologist, you have to wait for an appointment for months, but, if you want to, you can call the nurse on her private phone and make an appointment to be seen by the doctor at the same office at a hospital in Zagreb in two days – if you are willing to pay HRK 400!"

The results of the European Health Interview Survey concerning the use of healthcare services in 2019, which were released in 2022, show that a quarter of the citizens had waited too long for the service they needed.[iv] The data released by CHIF show that the waiting lists for initial examinations, treatment and diagnostic procedures have been shortened by signing contracts for additional diagnostic and treatment procedures with (a total of five) private polyclinics. The average waiting time in 2022 was thus reduced by 39.9 days in comparison with the pre-pandemic year 2019, to 162.5 days, even though the number of appointments in the system increased by 96,348 compared to 2019.

However, this only means that the average waiting time has been shortened, and does not reflect the actual waiting time for some examinations or treatment and diagnostic procedures. Besides, the number of days by which the average waiting time has been shortened is still not enough to ensure that the patients receive the healthcare services they need within a reasonable timeframe, especially the patients suffering from the severest conditions and low-income patients who cannot afford to see a private doctor.

Waiting times were the longest for the colour Doppler ultrasound of veins and arteries (325.4 days), breast ultrasound (270.9 days), heart MRI (236.8 days) and heart ultrasound (232.9 days).

The new CHIA improved this situation, requiring up-to-date monitoring of the waiting lists so that significant extensions can be detected, and the system can react adequately. If the waiting lists for certain healthcare services become significantly longer, the CHIF can hold tenders and conclude contracts with healthcare institutions. However, significant extension of the waiting lists needs to be defined more precisely, as does the time limit by which the waiting list is considered medically acceptable for a given healthcare service. On the other hand, insured persons need to be made aware of their personal responsibility and the need to cancel on time the scheduled appointments for examinations and medical procedures they will not be able to keep.

In addition to long waits for exams and procedures, the citizens also complained to us of long waits for the interpretation of their test results. The question is if the test results that are up to six months old at the time of their interpretation are even correct anymore, and this in turn raises the question of healthcare services not being provided on time in cases when the further course of treatment depends on the interpretation of the tests results.

"I kindly ask you for information about my right to get an appointment with a specialist as urgently as possible after all required tests have been completed.

A neurologist referred me to three different tests, and all three were finally performed after six months, but I received an appointment for the interpretation of the test results only in June next year.

This means that the test results will be at least eight months old at the moment of the appointment, and much can go wrong in these eight months if the test results show that there is a problem."

The complaints we received also indicate that the data about the waiting times for some exams or procedures listed on the website of the CHIF are not accurate. CHIF explains that the accuracy of the data is the responsibility of the healthcare institutions providing them, and that the CHIF encourages the institutions in question to provide up-to-date data. Since the CHIF's website is the only place where patients can check how long they will have to wait for an exam or procedure before making an appointment, and since the patients have been asked to only make appointments at one institution, it is very important that the data on the waiting times are accurate. When they make an appointment at a healthcare institution, the patients should not be given a date much later than the one listed on the CHIF's website.

Recommendation 26 (reiterated)
For the Ministry of Health to: take further specific action to reduce the waiting lists

Recommendation 27
For the Croatian Health Insurance Fund to: ensure, in cooperation with the Ministry of Health, the accuracy of the data displayed on its website regarding the number of wait days per healthcare service and healthcare institution

"It is very unfair to give inaccurate information to the CHIF, and to communicate such information to the patients. Please check the times listed on the CHIF's website. If your information is not accurate, please modify the information that you publish."

2.3.6. COVID-19 epidemic and health

"As I have already told you, my uncle is an old man, and does not know how to use a phone. Since visits have been banned, I and the other family members are unable to get in touch with him and ask him how he feels or if he needs anything. We are forced to rely on the kindness and the time of the nurses and doctors in the oncology ward, who are very busy, to give us some more information about his general condition, and to tell him that we send our regards. Please understand, because, I will be honest with you: a kind word from a loved one probably does as much good to my uncle as the chemotherapy itself, and this is true for many cancer patients!"

Statistical data on the number of COVID-19 cases and deaths received much less attention in public in 2022. Most measures imposed to curb the spread of COVID-19 were lifted in April 2022, but the end of the epidemic was not yet announced. Even though Croatia was in the middle, and occasionally at the bottom of the list of EU member states with the highest number of COVID-19 cases per million inhabitants, throughout most of the year Croatia was among the EU member states with the highest COVID-19 death rates.

Between the beginning of the epidemic and 25 December 2022, 17,521 persons died in Croatia. The death rate was especially high during the summer, when the numbers were considerably higher than in 2020 and 2021. Information released by the CBS shows that the number of deaths in 2022 was up 8.8% in relation to the average number of deaths 2015-2019, indicating that the COVID-19 epidemic was still a threat to human health and lives.

The number of complaints our institution received regarding the epidemic has decreased, but at the beginning of the year, the citizens still contacted us about difficulties related to COVID certificates. The complaint submitted by a citizen who was issued a mandatory misdemeanour warrant for an alleged violation of self-isolation when he was crossing the border due to an administrative error in the input of the self-isolation start date illustrates that such administrative errors could lead to serious problems. The complainant had to regularly travel outside of RC because his child was about to be born. We therefore asked the CHIF to process his complaint urgently. The Fund established than an error had been made, ensured the input of correct data, and issued a warning to the complainant's doctor.

2.4. The right to work

"Dear Sir or Madam, I followed your advice about my salary, and an inspection was carried out. Thank you. After the intervention, I was paid the outstanding salary that I was owed. The threats were real, but he was probably scared of further inspections, lest they prevent him from stealing and cheating next year. Excuse my crude vocabulary. The problem is that he is exploiting the other workers too. Since he is not a hospitality worker by profession, he is a disgrace for Croatian tourism. He is a terrible guy, but there are plenty more of those around here. People work for 12, 13 hours a day, and on their day off, they start work at 5:00 pm. I am telling you this just to give you a general idea. There are no trade unions, and this is how it is. Thank you once again, and I wish you lots of success in your work. Sincerely, ..."

Amendments to two important acts that were adopted in 2022 are going to have a substantial impact on the legal employment status of workers in Croatia: the Labour Act and the Civil Service Act. The same applies to the adoption of the Act on the Suppression of Undeclared Work.

Instead of adopting a new Labour Act that had been announced, the existing one was amended. The most important changes concern fixed-term employment contracts, introducing the obligation to specify an objective reason for entering into such contracts, and limiting the total number of successive fixed-term contracts. Important amendments were introduced concerning work in satellite workplaces, and remote work was defined as a new concept. The Act expressly requires the worker's work-life balance to be taken into account during vacation and leave time, and states that workers are not under obligation to answer their employer's calls in their time off work unless absolutely necessary. Under the Act, employees are entitled to an increase in their salary amounting to at least 50% for every hour of work on Sundays. Provisions regulating salary and salary compensation have also been amended. To make it easier for employers to retain their workers, when the workers reach 65 years of age and have 15 years of pensionable service, they are not entitled to a notice period and severance pay. The Act also introduces the possibility of extending the probation period in the event of illness or exercise of maternity and parental rights, the possibility of unpaid leave of up to five work days to care for a family member, and the right to time off work for urgent family reasons. The Act also provides for the possibility of collective bargaining agreements granting a greater scope of certain material rights, but only for the members of the trade unions who negotiated the agreement. As we have pointed out during the process of the drafting of the Labour Act amendments, in practice, this provision can negatively impact the exercise of the right to freedom of association, and create indirect pressure on workers to join a specific trade union in order to gain access to greater material rights. Furthermore, amendments to the Labour Act include the obligation of the employers to consult the workers' council about the appointment of the person responsible for the complaints concerning the protection of dignity and a new legal framework regulating the rights of digital platform workers, scheduled to apply as of 1 January 2024.

The Act on the Suppression of Undeclared Work was also sent into the legislative procedure in 2022. This Act defines the forms of undeclared work, introduces the presumption that the employment relationship existed six months prior to the discovery that the worker's employment had been undeclared, and makes provisions for the publication of a list of employers whom inspections found to have been practicing undeclared work. The purpose of its publication is to inform the citizens which

employers fulfil their obligations.

The Act on Amendments to the Civil Service Act also entered into force in late 2022. This Act allows civil servants to work full-time or part-time after they have fulfilled the conditions for old-age pension, and allows the employment of retired persons part-time by the maximum age of 67. These amendments were justified by the need to prevent the departure from service of many civil servants who are working on the most complex jobs, for whom an adequate replacement cannot be found on time.

Employers tried to compensate for the labour shortage, primarily in the retail, processing, and construction industries, by hiring retired persons and foreign workers. Foreign workers are often unaware of their rights relating to employment, ways of protecting these rights, possibilities of joining trade unions, and their rights and obligations regulated by the Act on Foreigners. Public policies focusing on their integration in the society are generally absent.

2.4.1. Unemployment rights

"... I am a Croatian war veteran, born 1964. I had worked at a public institution for the past eight years. Instead of the indefinite employment contract that I had been promised, I was dismissed from my job. Sadly, my wife has cancer, diabetes and high blood pressure, and is unable to work. The only thing I am asking is to let me go back to my job so that I can make a living like all other people. We have no income of any kind, but no one cares. Please help me to start working and to be worthy of my life. Kind regards!"

In late December 2022, 117,816 unemployed persons were registered with the CES, their number having declined by 6.28% compared to the year before. During 2022, 119,867 persons registered with the CES directly after their employment ended, of which 72,560 (60.5%) registered after their fixed-term employment contracts expired, which shows that a high share of employed persons in Croatia is still in precarious forms of work. On 31 December 2022, there were on average 63 persons over 65 years of age and 149 pensioners in the jobseeker register, which shows that some people in these groups need and/or want to work in spite of their age and retirement.

Unemployed persons complained of a lack of material means to sustain themselves, of the difficult material position of their entire families, and of social exclusion, which was aggravated by the increased costs of living.

To mitigate the effects of the increased costs of living, in the autumn package of measures to protect households and the economy from the increased prices, the Croatian Government adopted the decision to pay allowances to unemployed persons. The section of the autumn package dealing with supports for unemployed persons states that they will receive HRK 250 per month for October, November and December 2022. However, the decision exempts the persons whose employment was terminated "by their own volition or fault" from these payments. The wording of this provision allowed for different interpretations and for denying the payments to unemployed persons who terminated their employment contracts because they employer had not been paying their salaries. We therefore recommended to the MLPSFSP to disburse these supports to all unemployed persons registered with the CES, but our recommendation was not accepted.

The amendments to the Compulsory Health Insurance Act are going to further aggravate the material

situation of unemployed persons, because they require unemployed persons who have compulsory health insurance, but are not registered with the CES, to report to the CHIF once in three months for the purposes of verifying the circumstances based on which their insurance status had been established. If they do not comply with this obligation, they will be deregistered from compulsory health insurance ex officio, without issuing a decision. As we have pointed out in our opinion we delivered to the MH, the obligation to report to the Fund in person could negatively affect persons who are unable to cover travel costs, who live in rural areas where public transport is not available, or who are unable to come to the CHIF's office in person due to health reasons. Also, the question is how the information on deregistration will even reach all persons who have been deregistered from compulsory health insurance. More information about the comments and proposals we presented in our opinion to the Ministry of Health in connection with the amendments to the Compulsory Health Insurance Act is provided in the chapter on health.

2.4.2. Employment in the civil and the public services

Civil services

Civil servants contacted us, sometimes anonymously, asking for advice on exercising certain rights from their collective bargaining agreements (Christmas bonus, bereavement support payment, paid leave or annual leave), on the termination of employment due to the termination or expiration of fixed-term employment contracts, and other infringements of employment rights.

In addition to other infringements of employment rights, the Croatian Medical Union shared with us the alarming piece of information that physicians had as many as 3,000,000 hours of overtime in 2022, and that most complaints they received from physicians concerned failure to respect work hours, and violations of legal provisions regulating overtime.

In comparison with previous years, we received fewer inquiries and complaints about non-transparent and/or illegal employment at public institutions. In such cases, citizens can submit a petition to the competent inspections, and they can also lodge a complaint to the employer's responsible person against the decision on the choice of candidate, as explained by the Croatian Constitutional Court in Decision U-III-4016/2015 of 2019. Public institutions are supposed to issue decisions about candidates' complaints, and the candidates should have the possibility to initiate an administrative dispute against these decisions, which allows for judicial control of selection procedures. We therefore recommended to the ministries in our 2020 and 2021 reports to inform the public institutions within their area of competence about the substance of the said decision issued by the Constitutional Court. The MLPSFSP informed us that they implemented our recommendation. However, the data we received from CHIF indicate that no decisions had been issued about four complaints lodged in 2022. Candidates only received notices, against which they are unable to initiate an administrative dispute.

Recommendation 28 (reiterated)
For the Ministry of Science and Education to: continue carrying out periodic targeted inspections of fixed-term employment contracts in educational institutions

Regarding the recommendation to the school inspections operated by the MSE that we presented in our 2021 Report – to undertake targeted periodic inspections to determine the lawfulness of fixed-term employment contracts in educational institutions – the MSE informed us that the school inspection investigated fixed-term employment in 31 inspection procedures, and found infringement of the relevant regulations in nine instances. Data show that inspections to

determine the lawfulness of fixed-term employment contracts are still required at educational institutions.

Public services

During 2022, public servants contacted us to voice their displeasure with failures to issue decisions about their transfer requests, with decisions regarding transfers or service assignments, with the lack of appropriate working conditions, and with mobbing.

We continued to receive complaints from police officers who requested to be transferred because they had gotten married, had a child, or had to care for an ailing parent, and whose requests were not processed. Some asked us to help speed up the process and ensure that their requests are approved, to which we replied that the employer's decision depends on the requirements of the service, and that they can lodge an appeal against the employer's decision to the Public Service Committee.

The Committee's 2022 data indicate that the lack of an explanation is the most common ground for the voidance of first-instance decisions. This is in contravention of article 98 paragraph 5 of the GAPA, which concerns especially the decision on the reassignment of public servants to other positions due to organisational changes.

Even though the Committee has the power to overturn the decision and resolve the matter acting of its own motion if the reassignment decision is not aligned with the provisions of material law, the Committee considers that direct action of the first-instance body is necessary for the adoption of a new decision. The Committee is therefore forced to constantly overturn unlawful first-instance decisions, because the first-instance bodies issue decisions containing the same flaws in repeated procedures, often ignoring the Committee's instructions. As a result, transfer/reassignment procedures take years, and public servants enjoy no real protection against the unlawful actions taken by the institutions employing them.

We would like to mention here the case of a public servant who had been trying to obtain legal decisions on transfer and assignment to a position since 2016. In the meantime, she has retired from public service. In several repeated procedures, this public servant was issued transfer and assignment decisions transferring and assigning her to positions involving less complex tasks. The explanations of the decisions in question point to failure to perform official duty, which can be a cause to institute proceedings for breach of professional duty, but it is not a valid reason for transfer or assignment. The service's need for transfer has to be objective and clearly explained. Otherwise, the concepts of transfer and assignment could be used as means to get rid of persons who are considered unfit under the guise of their incompetence to perform the tasks associated with a certain position or under the guise of breach of professional duty even though neither had been proven in disciplinary proceedings.

2.4.3. Employment in economy and crafts

"Kindly help me. My husband, who is from Sarajevo and is a national of Bosnia and Herzegovina, has been working for a Croatian company for three and a half months. He has been issued a work permit and residence permit in Croatia. He spent January working in Croatia. In February, the company posted him to Germany using the A1 form, where he was promised an hourly rate of EUR 12.5. He spent February working there, and then he again worked in Croatia in March. The company paid him only EUR 640 for February. He did not receive the rest of his salary for February, and he did not receive the salary for March at all. They are refusing to pay. My husband has been in Croatia for seven days now without money to pay for food and transport, waiting to be paid so he can come back home. The baby and I also have no money. Please, can you help him get the salaries he has earned so that he can come back home?"

Most of the complaints and inquiries we received in 2022 came from workers employed in the business sector and the crafts. They complained of illegal dismissals, undeclared work (without the conclusion of an employment contract and/or without registration to the insurance authorities), non-payment of salaries, sick pay, or meal and transport allowances, payment of their salary in cash, in part or in full, malfeasance in keeping records of work hours, illegal and unpaid overtime, violation of their right to a daily and weekly rest period and annual leave, mobbing, and problems associated with fixed-term employment contracts and failure to provide safe working conditions.

Employees are often unaware that the employer is required to give them a payslip when paying their salary, along with a calculation of unpaid salaries owed, which constitutes an enforceable instrument they can submit to FINA to enforce their claims.

Since the Ombudswoman does not have the power to launch investigations based on complaints of infringements committed by private employers (legal entities and natural persons), unless discrimination or protection of whistleblowers is involved, which is not the case here, we provided the employees with general legal information about the legal redress instruments available to them, and we also informed them about the possibility of judicial redress, taking into account the applicable limitation periods.

According to the SIRC's 2022 statistics, employers failed to pay even a minimum wage to 673 workers. While this is a substantial decrease compared to 1,321 in 2021, this is still a major problem. The inspections discovered 49 cases in which gross salary amounts were not contractually agreed or defined; 43 cases in which the salaries did not match the amount established by the Regulation on the Minimum Wages for 2022; 11 cases in which workers did not receive a salary increase in the minimum amount defined by the collective bargaining agreement; and one case of misdemeanour consisting of the conclusion of agreement waiving the right to receive a minimum wage. The inspectors filed criminal charges in 70 cases, of which 64 for the criminal offence of non-payment of wages, and 16 for the criminal offence of infringement of social security rights.

In 2022, SIRC found that there were reasonable grounds for suspecting infringements of provisions regarding the conclusion of fixed-term employment contracts in 99 cases, of which 74 cases involved legal entities, and 25 involved natural persons (sole proprietorship), which resulted in motions to indict being filed.

According to the data compiled by the CPII, 21.84% insured persons had fixed-term employment contracts on 30 November 2022, which is slightly less than in 2021 (22.36%). Uncertainties regarding the conclusion of fixed-term employment contracts were one of the most common reasons why citizens sought help From the MLPSFSP. The most common problems identified by the trade unions also include the conclusion of several successive fixed-term employment contracts, failure to specify objective reasons for concluding such contracts, and the use of such contracts in place of a probation period.

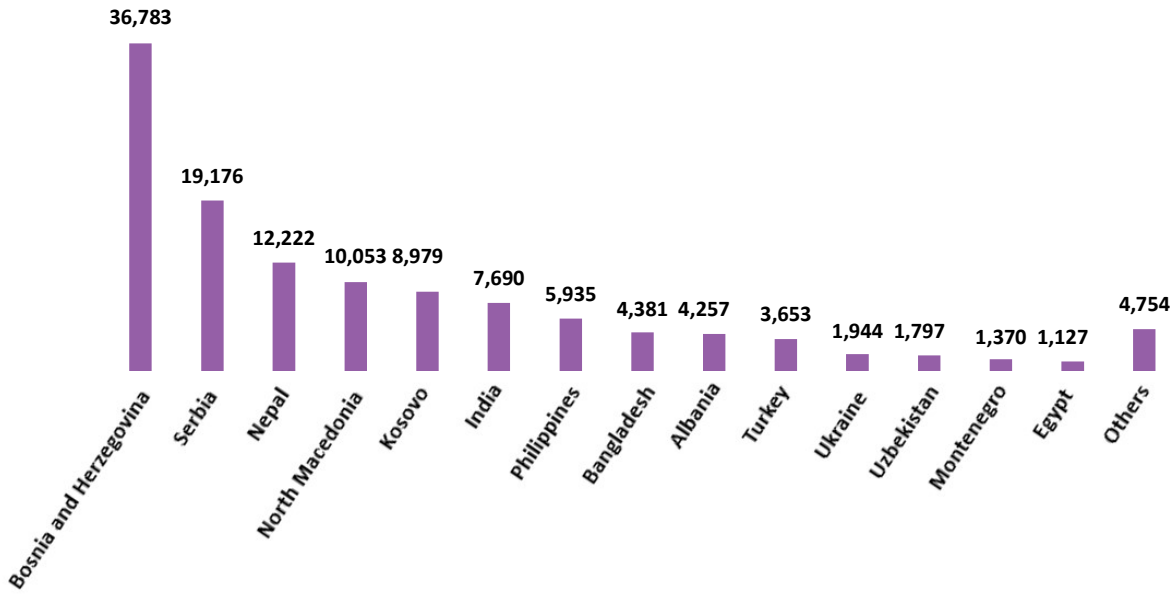
Recommendation 29
For the State Inspectorate to: continue carrying out more inspections concerning employment based on fixed-term employment contracts

Due to the powers vested in them, labour inspectors are an important factor in safeguarding workers' rights in the business sector and the crafts. Given their high workload and the high complexity of the cases they deal with, sufficient capacities need to be ensured, especially having in mind the rate of the retirement of inspectors.

We were contacted by a number of third-country nationals employed in Croatia (mostly from Bosnia and Herzegovina, Serbia, Ukraine and the Philippines) in 2022. They complained of working without a work permit, non-payment of salaries, improper records of work hours, and illegal and unpaid overtime. For the most part, they were not informed about the ways to protect their employment rights, which was made even more difficult by the fact that they did not speak Croatian, and often did not even speak English. Most of them were hired through staff placement agencies as cheaper labour in the service industry, construction and agriculture.

According to the MI's information, a total of 124,121 workers from third countries holding residence and work permits worked in Croatia in 2022. Out of this number, 79,458 permits were issued to newly employed workers, 27,827 permits were extended, and 16,836 permits were issued to seasonal workers. The majority of foreign workers came from the region: Bosnia and Herzegovina (36,783), Serbia (19,176) and North Macedonia (10,053). Other leading countries of origin of foreign workers included Nepal (12,222), India (7,690), Philippines (5,935) and Bangladesh (4,381). The leading professions that were issued residence and work permits were as follows: builder (7,895), waiter (6,840), carpenter (5,965), structural engineering worker (5,602), cook (4,971), assistant cook (4,128), locksmith (3,107), rebar fixer (3,031), plasterer (2,768) and electrician (2,189).

The number of foreign workers from third countries in Croatia by nationality



SIRC's data indicate that reasonable grounds to suspect that third country nationals were working for employers in contravention of the Act on Foreigners were established in 526 cases in 2022, which is 169 cases more than in 2021. The inspectors issued 137 decisions dealing with illegal foreigner labour, temporarily prohibiting the employers from doing business, of which 81 decisions were overturned because the employers paid HRK 30,000 per foreigner within the specified deadline, which shows how much they need workers. The inspectors found the most violations of the Act on Foreigners in construction, hospitality and other service industries.

Recommendation 30

For the State Inspectorate to: reinforce their monitoring of the lawfulness of employment, labour, and working conditions of third-country nationals

Public awareness of the challenges of security guard jobs increased in 2022 due to media reports about physical attacks, some of which sadly resulted in death[v]. According to the data compiled by the Trade Union of Employees in the Security Industry, there were 17,000 licensed workers employed in security guard jobs at the time when this Report was written, even though their number was higher (about 40,000), and another 3,000 undeclared workers who did not have the required security guard license issued by the MI were working on these jobs. Workforce availability has decreased due to low salaries, and the training of security guards is not fully aligned with the needs of the labour market. They often work overtime and night shifts, and much of this workforce is composed of pensioners. The Trade Union feels that recruitment of younger workers would be a long-term solution. Inspections carried out by MI and SIRC found that employment contracts were concluded for jobs that do not exist in the National Classification of

Recommendation 31

For the State Inspectorate and the Ministry of the Interior: monitor the lawfulness of employment on security guard jobs by employers registered as private providers of security services

Recommendation 32

For the Ministry of the Interior to: adopt the required regulations to implement the Private Security Services Act

Economic Activities, that workers did not have the required licences, that they were keeping weapons outside of temporary storage, that they did not have security guard IDs, that they were not wearing the required uniforms, and other forms of irregularities we mentioned earlier as having been detected in in the business sector and the crafts.

After the new Private Security Act entered into force in February 2020, according to the Trade Union of Employees in the Security Industry, only six out of fifteen implementing acts have been adopted, even though the new regulations were supposed to be adopted within one year of the Act entering into force. Old regulations that are not fully aligned with the new act have remained in force until the adoption of new ones.

2.4.4. Mobbing

The Ombudswoman often received complaints about mobbing in the workplace and poor interpersonal relations and working conditions, in an equal measure from public and civil servants and from private sector employees. Persons who believe that they have been victims of mobbing were often unaware of the relevant provisions of the LA, the Occupational Health and Safety Act, and the CC, and were likewise unaware of the redress mechanisms available to them.

To ensure more efficient protection of the workers' dignity in the workplace, which largely depends on the actions of the person in charge of protecting workers' dignity, we pointed out in our 2021 Report and during the drafting of the amendments to the LA that the consent of the workers' assembly or council should be mandatory when appointing this person. In line with our recommendation, the Act on the Amendments to the LA imposes an obligation on the employers to consult the workers' council prior to making the decision on the appointment of this person.

The data provided by the trade unions and the Association Providing Information and Assistance to Mobbing Victims also indicate that mobbing cases have become increasingly common. According to the New Trade Union (Novi sindikat), employers are implementing proceedings to protect workers' dignity, but the resulting measures are too lenient or non-existent, especially in cases of vertical mobbing, which discourages workers from reporting and testifying about mobbing.

The Association Providing Information and Assistance to Mobbing Victims states that they were contacted by 816 employees in 2022, of which the Association established that mobbing was involved in 356 cases, 305 of which were cases of vertical mobbing. The number of employees who reached out to the Association in 2022 decreased in relation to the year before, and the number of cases which were found to involve mobbing decreased as well, from 67.2% in 2021 to 43.6% in 2022.

Recommendation 33

For the Croatian Government to: ratify the ILO's Convention concerning the elimination of violence and harassment in the world of work (No. 190)

The Convention concerning the elimination of violence and harassment in the world of work (No. 190) was adopted at the 108th session of the International Labour Organization in June 2019. This convention is the first international instrument setting the standards for the suppression of violence and harassment in the world of labour, and defining the actions required from countries and from employer and worker representatives. The ILO's report Experiences of violence and harassment at work: the first global survey[vi] reveals that as many as 22.8% workers worldwide have experienced at least one form of violence and harassment during their career, which

is consistent with the high number of complaints concerning mobbing, psychological harassment and violation of dignity in the workplace that we received in 2022. The ratification of this convention, which has so far been ratified by 25 member states of the International Labour Organisation, including five EU member states, would help reinforce the protection of workers in Croatia, and address the problem in question.

2.5. Discrimination in employment and labour

Most of the complaints received in 2022 regarding discrimination in employment and labour were based on the workers' state of health and material situation, age, trade union membership, and ethnicity. Some of the workers who contacted us with their complaints withdrew them at a later stage for fear of victimisation in the workplace before or during our investigation.

In many cases, the complainants cited discrimination when in reality their complaints dealt with other forms of unlawful behaviour, such as favouritism in employment or harassment at work that was unrelated to any of the grounds of discrimination, which shows that the knowledge of the legal regulation pertaining to anti-discrimination is still insufficient. Employers are required to protect the dignity of the workers not only from discriminatory actions, but also from all forms of physical and psychological harassment. However, if there is no causal link between the wrongful action and one of the grounds for discrimination, the case does not involve discrimination as defined in the ADA, which is important to establish in order to be able to use adequate redress to protect workers' rights.

2.5.1. Discrimination in employment

Croatia is seeing an increased presence of foreign workers, some of whom differ from the locals in terms of physical appearance, culture and language, and some employers have made it known publicly that they would prefer not to hire foreigners. Business owners are wrong in thinking that they are free to choose who they will hire in the sense of excluding certain candidates on the grounds of their skin colour, religion, ethnicity, or other grounds defined in the ADA. The choice of the candidate has to be based on the candidate's possession of knowledge and skills required for the performance of the tasks associated with a certain position. A social media post in which the employer announces that they will not hire candidates of certain nationality or skin colour is therefore an instance of direct discrimination in employment, as confirmed by the European Court of Justice in the Feryn case (C-54/07). The Court ruled that such an announcement can dissuade certain candidates from applying for the job and therefore constitutes presumed application of a discriminatory recruitment policy, irrespective of whether any candidates possessing the undesirable trait responded to the ad.

"All the normal workers have evidently emigrated to Ireland, and we have people from Pakistan and Bangladesh and Chetniks from Niš applying to our ad! To avoid further defacing of our Samobor with these black people (there are really too many of them and they are an eyesore, carrying shopping bags full of alcohol from the store, while local elderly people cross to the other side of the street to avoid them) ..."

We have reported before about the problems faced by persons whose potential employers required them to have a car in order to be hired or to have computer equipment to be able to work from home. We found suspicion of indirect discrimination based on financial status in the case in which the employer made employment conditional on the candidate having their own computer and software. Such a condition can have a deterring effect on persons of financially disadvantaged background who do not have the required computer. In this specific case, we recommended removing this discriminatory condition from future vacancy announcements, and the recommendation was accepted. More information about this issue is provided in the chapter dealing with discrimination on the grounds of financial situation.

During the amendment of the LA, we argued that employers should be obligated to provide their workers with the work equipment, and suggested that the use of the workers' own equipment can only be allowed with the worker's consent. Our proposal was only partially accepted: in addition to the already existing obligation for employers to provide work equipment on their own premises, the amendments require employers to also provide equipment in satellite workplaces (whether the workers are working from home or another space other than the employer's space), but employers are not required to provide equipment in case of remote work (using ICT).

"This is a clear case of discrimination. How is it possible that, in spite of this fact, I am prohibited to work and have a dignified life on account of someone's personal opinions? Where should I work and how, and how should I provide for my family, if my entire life comes down to the decision and opinion of individuals. I have been dismissed from jobs many times as soon as my diagnosis became known, even though I had done my job properly until then, with no issues or complaints."

Citizens have also pointed to discrimination in employment on the grounds of the person's health status. We have thus heard from a woman who was not hired as a member of the cleaning staff at a nursery school on account of her diagnosis of epilepsy. At the job interview, the candidate was told that she had been chosen, but when she sent her medical records showing her diagnosis to the employer, he decided not to hire her after all. During our follow-up, the Ministry of Science and Education confirmed to us that this candidate's medical condition (epilepsy) is not an obstacle to work as a member of the cleaning staff at a nursery school. We established that this was a case of suspected discrimination, provided the nursery school with recommendation for future actions, and informed the complainant about the possibilities of judicial redress.

We also investigated a complaint of discrimination on the grounds of health status in the recruitment of personal assistants to persons with disabilities. Associations providing personal assistant services to persons with disability required candidates as a condition for employment to provide documentation, signed by their family physician, and disclosing their health status, diagnoses, and any medications that they might have been prescribed. However, in the *Instructions for applicants to the limited call for the application of two-year programmes implemented by associations providing assistant services to persons with disability in Croatia for the period 2022-2023*, the MLPSFSP requires personal assistants to provide medical certificates of their general physical, psychological and medical fitness. The specialisation of the physician issuing this certificate is not specified. While we understand the intention to protect the beneficiaries of these services, we believed that occupational medicine specialists should be in charge of verifying the candidates' medical fitness, in line with the provisions of the LA and the Occupational Health and Safety Act, and we issued a recommendation to this effect

to the MLPSFSP. After we made this recommendation, public consultations were held about the proposal for a Personal Assistance Act, in which the certificate issued by a family physician is not required as a condition for the employment of personal assistants.

Public consultations on the Theatres Act, regulating, among other things, the procedures for the appointment and removal from office of the managers and directors of national theatres, public theatres and theatre companies, were also held in 2022. Since the proposed act gave the power to appoint managers and directors to the executive body, without a public recruitment procedure, we suggested that the Act should regulate the education level and professional qualifications and competences the candidates are required to have. We suggested this for the sake of transparency and equal conditions for the appointment of these managers and directors, since different conditions were defined in the statutes of different institutions. Our proposal was not accepted, even though it would have helped prevent disputes regarding the appointment of theatre managers.

2.5.2. Discrimination in the area of labour

Complaints and inquiries we received from public and civil servants and clerks primarily concerned their dissatisfaction with being transferred or assigned to a certain position, but also their dissatisfaction with other civil servants being assigned to positions for which they, in the complainants' view, possessed less adequate professional qualifications and/or work experience than the complainants. Even though they believed that such decisions taken by their superiors were motivated by one of the discrimination grounds identified in the ADA, as we have seen with employment, they often actually involved non-transparent conditions for assignment to certain positions, which allows illegal favouritism of individuals, but does not constitute discrimination.

Also, some civil servants complained about their salaries or lack of certain salary bonuses. While no discrimination is involved in these cases, they are indicative of the need to re-examine the salary system in the public and the civil services, which is especially evident in the judiciary. A number of challenges arose in the justice system due to low salaries and the dissatisfaction of its civil servants and clerks, which will be discussed in more detail in a separate chapter.

Pursuing complaints submitted by citizens and trade unions, we found that some private employers consider the employees' age and health status as relevant criteria when selecting workers to be made redundant or subject to reorganisation, which puts at a disadvantage workers of a certain age, those suffering from medical conditions, or those caring for family members.

In our proceedings following up on a notice received from a trade union, we found that one company, in selecting the workers to be made redundant, considered general criteria (age, professional qualifications and years of service at the employer) and specific criteria (productivity, initiative and creativity in work, knowledge and skills in working with new technologies, willingness to cooperate, preference for team work), with older workers receiving more points for general, and fewer points for specific criteria. Even though the employer did not organise any trainings, the workers were required to gain on a daily basis new knowledge and skills required to adequately perform the tasks associated with their jobs, including in working with new technologies. However, the employer should organise trainings for the employees, especially for employees who are unable to learn such skills on their own due to financial or other reasons, so as to prevent discrimination. Before defining the criteria and ranking the employees, the employer should have provided all employees with equal opportunities to perform the tasks related to their jobs, including learning new skills, which was not the case.

Some employers are still insufficiently informed about pensioner employment, which can lead to an infringement of their rights if they choose to stay in the labour market. We thus identified suspected

discrimination on the grounds of health status and age in the case of a worker who concluded a fixed-term employment contract with her employer after retiring. They agreed that the contract would be automatically terminated in the event of a sick leave longer than 42 days, and that the worker would waive the right to lodge a complaint or to institute legal action. The employer acknowledged that the right to equal treatment had been violated, and added an annex to the contract, removing the provision in question.

Trade unions and workers drew our attention to cases of workers not receiving salary bonuses from some employers due to time spent on sick leave. The employers paid the bonuses after the adoption of the Income Tax Act. Time spent at work, which is often associated with the worker's health status, is a criterion some employers consider when disbursing these bonuses, which can lead to discrimination of workers on the grounds of their health status.

The general conclusion that can be drawn from our handling of complaints is that many workers are not aware and have not been informed of their rights by their employers, and even the workers who are aware of their rights often do not seek redress for fear of negative consequences. Employers sometimes refuse to cooperate with trade unions, which have an important role, and this leads to the difficulties in the unions' work aimed at the protection of the workers' rights. Some trade union commissioners claim that they have been prevented from performing their tasks, and in some cases, were reassigned to inferior positions, or issued warnings or final warnings. Even though it is up to the employer to decide which tasks to assign a worker to, and to assess if the worker completed the assigned tasks in a satisfactory manner, these decisions should be explained and based in law, the employer's statutes, and the employment contract, which was not the case in some instances.

2.5.3. Digital platform work

Digital platform work has become increasingly popular and widespread with the development of the digital technologies. Even though the platforms provide work to many people, they can also lead to precarious working conditions. We drew attention to this point during the e-consultations on the amendments to the LA, to which a new chapter on digital platform work has been added. However, this form of work could still be better regulated by law, especially with respect to the exemption of digital platforms from joint liability for the obligations toward the workers. With respect to the aggregators (mediators), it would be useful to require the aggregators to have a specific legal form, with a certain capital as a guarantee that the obligations to the workers will be fulfilled. We also indicated that employers should be required to provide the workers with the equipment they need for their work, as well to ensure that the automatic algorithm-based management system does not lead to discrimination on any grounds.

Trade unions have also stated that workers complained of non-transparency of the process of the exclusion from the app, of the way the tasks were assigned, and the consequences of refusing tasks, as well as of the inability to communicate with the platform. They indicated that the system did not recognise the reasons for their absence from the app, whether it was caused by temporary inability to work or other justified reasons, and that the absence impacted the quality of the orders they received when they returned to work. Trade unions drew attention to the fact that the platforms make the work conditional on workers owning their own equipment, in particular means of transport and a smartphone with a mobile internet connection. On the other hand, platforms have denied these allegations, maintaining that the workers choose when they want to work and for how long, without penalisation. They also maintain that they do not interfere with the decisions made by algorithms on the assignment of tasks, but they also claim that these decisions are subject to

Recommendation 34

For the State Inspectorate to: carry out inspections of the digital platform work

human supervision. Some platforms also maintain that the way their algorithms operate is a trade secret. The platforms do not accept the role of employer, and transfer the responsibility for ensuring the work equipment to independent service providers, or aggregators acting as employers. Considering the increasing popularity of platform work, we need to keep track of the development of this way of doing business, as well as of the European practices moving in the direction of protecting the workers' rights and considering digital platforms to be employers.

2.6. Older persons' rights

2.6.1. Social security of older persons

The results of the 2021 census, which were released in 2022, show that 22.45% residents of Croatia are aged 65 or older. More than a quarter of inhabitants of the Šibenik-Knin (27.39%), Lika-Senj (26.26%) and Primorje-Gorski Kotar (25.82%) Counties are older than 65. The at-risk-of-poverty rate for this age group was 32.4%, standing at 37% for women and at 55.3% for older persons who live alone, which represents a sharp and alarming increase compared to 2020, when the latter rate was 52.1%. In other words, more than every other older person living alone is at risk of poverty.

2022 was marked by a significant increase in the food and energy prices, with the annual inflation rate reaching 13.1%, which had an especially high impact on the poorest elderly persons. The pension adjustment formula only partially followed the increase in prices, while the national benefit for older persons, adjusted only once a year, did not grow considerably in 2022, amounting to HRK 820.80.

Given the price increases and the need for urgent assistance measures, the Croatian Government issued decisions on the payment of one-time financial assistance to pensioners with pensions of up to HRK 4,360 on three separate occasions in 2022. They received between HRK 400 and HRK 1,200, depending on the amount of their pension. Even though about 690,000 pensioners received these payments, poor retirees living in RC and receiving exclusively foreign pensions had not been included in the measure, which is to be further discussed in the chapter dedicated to age discrimination.

According to the CPII data, as at 31 December 2022, there were 6,418 users of the national benefit for older persons, mostly in the City of Zagreb, Zagreb County and the Osijek-Baranja County, with 1,090 of the beneficiaries aged 80 or older.

The MLPSFSP states that, starting from the date of the entry into force of the Act on the National Benefit for older persons (1 January 2021) until 14 November 2022, a total of 13,267 requests were submitted, based on which 7,172 persons, i.e., 54% of the applicants were granted this right. The MLPSFSP indicates that the most common reasons for not granting the request were the higher income of the applicant and/or their household members than stipulated, not meeting the condition of continuous residence in the Republic of Croatia in the duration of 20 years immediately prior to submitting the application, and being the beneficiary of the GMB. With respect to the condition of continuous residence, we stated in the 2021 Annual Report that such a demand related to the duration of residence may have an especially hindering impact on the eligibility of some returnees for the benefit, although they meet the other criteria. Furthermore, the income criteria, stating that the

income of the user and/or their household members in the previous year must not exceed the determined amount of the national benefit, means that a number of elderly persons at risk of poverty will be left out of the scope of the benefit.

The MLPSFSP believes that one of the reasons for the small number of users of the national benefit for older persons was the adoption of the new SWA, whereby the base for the calculation of the GMB was increased to HRK 1,000.00, with the GMB for an elderly single person and person in a state of total incapacity for work amounts to 130% of the base, i.e., HRK 1,300.00, and the GMB serves as a "pass" for other rights in the social welfare system and the local benefits – such as housing and heating costs.

In addition, the Croatian Pensioners' Union (CPU) points out that the payment of the national benefit for older persons exclusively to the bank account, without the possibility of receiving it by post, is especially aggravating to people living in remote areas without public transport, banks or ATMs, with banks charging extra monthly account maintenance fees, thus indirectly decreasing the income of the users.

It is definitely positive that the implementation of the eagerly-awaited reform of the survivor's pensions that increased by 10% and that enabled the pensioners to receive a part of their own and a part of the survivor's pension after the death of a spouse started from 1 January 2023. With the same date, the lowest pensions increased by 3%. Nevertheless, having in mind the further increase in the prices of food, services and energy, as well as how small the lowest pensions are, it is questionable whether and by how much the above measures would stop the increase of the poverty of older persons.

Recommendation 35

For the Ministry of Labour, Pension System, Family and Social Policy to: prepare the amendments to the Act on the National Benefit for older persons that would increase the national benefit for older persons, decrease the requested duration of residence and enable payment by post

Recommendation 36

For the Ministry of Labour, Pension System, Family and Social Policy to: consider changing the pension adjustment formula in order to better align the adjustment of pensions with the increasing costs of living

2.6.2. Residential care homes

According to the MLPSFSP data, there are 686 providers of the residential care services for older persons with accommodation capacity for 29,624 users. Most of the users stay in nursing homes based on a contract, and only a few based on a decision of a social welfare centre.

In February 2022, the long-awaited SWA was adopted, which compared to the previous Act does not provide for family homes as a form of providing accommodation services. The new SWA mentions them in the transitional and final provisions, where it is stated that family homes established in line with the provisions of the previously valid Act continue to provide social services until 31 December 2026 at the latest, by which time they should "transform", i.e., harmonise their organizational form with the provisions of the new SWA.

The association for information provision, expansion and development of social services for older persons "StarKA", whose members are mostly family homes providing housing for some 950 users,

states that only a small part of them have started the said harmonisation, and that many are considering ceasing their services. According to "StarKA", the reasons include the financial unprofitability of carrying out the operations, the lack of manpower and fatigue due to the uncertainty and announcements of closure of family homes in the past two years. At the same time, it is emphasized that the majority of the family homes that do plan to continue operating are waiting for the final deadline to begin the harmonisation. The above is confirmed by media articles stating that some privately-owned family homes in Dalmatia had already been shut down and repurposed for use in tourism.

In addition, there is a chronic lack of accommodation in nursing homes; more precisely, based on the number of inquiries for accommodation, "StarKA" association estimates that the demand for accommodation exceeds the offer by approximately 20%, and that is for emergency cases only – for older persons who need 24-hour help and support after hospital treatment or for other serious health reasons (users needing the 3rd level service).

Nevertheless, one should recall why the regulation on the mandatory transformation of family homes was adopted in the first place. The Ministry has established that some family homes were not able to provide the expected level of service due to too few staff members, particularly experts, or due to the inadequate infrastructure where the service was provided. The same was evident from the complaints we received in the recent years, including neglect cases, as well as the media-covered death cases in Andraševac and Dugi Rat family homes, which is why we have been proposing more frequent monitoring.

Unfortunately, the problem with operation of illegal family homes still exists, potentially endangering lives of their beneficiaries. During inspections in 2022, the MLPSFSP established that 13 social service providers continued working even after the ban. In one such home in the Zagreb County, repeated inspection found immobile elderly people without food and water, hygienically neglected and left to fend for themselves. The owner of an illegal family home in Istria refused to provide the data on the former and active users to the inspectors and tried to prevent them from conducting the inspection, so it had to be conducted in the presence of the police.

"Ivana and her brother decided to persuade their father to place him in a nursing home. I was satisfied because he likes company. I got his cell phone number, so I called him to see how he was doing. During the conversation, I heard someone moaning and he said that he had two roommates who were lying tied up and in pain. He complained about the food, that there was no shower and that he was not allowed to leave the room. I would like to note that he is not deprived of human freedoms and rights. The second day I called, he did not answer, so I dialled the number published on the internet, the so-called manager. She said she may not talk to me unless the daughter approved. My neighbours also called the other evening, and he said that the home was a morgue and he begged the neighbour (as he had begged me before) to come and get him out."

In the above cases, the tenacity of family home owners to continue working despite the imposed work ban is extremely worrying.

They are encouraged by the sanctions that fail to act as a deterrent, but also by the absence of public information about which homes have the necessary permits, i.e., which are banned from operating. More precisely, in search for accommodation, elderly people and their families are still often guided by the word of mouth, information published on the websites of the homes or on the social networks, and they do not have a simple way of checking whether the accommodation service provider or the home is operating without the necessary permits or whether it has been banned from working.

Recommendation 37

For the Ministry of Labour, Pension System, Family and Social Policy, to: publish and regularly update easily accessible information on homes holding the necessary permit, simultaneously ensuring that the list does not contain homes that have been banned from working

Recommendation 38

For the Ministry of Labour, Pension System, Family and Social Policy, to: adopt a bylaw regulating in more detail the manner of conducting inspections of social service providers by regional self-government units and the City of Zagreb

According to the new SWA, the regional self-government units and the City of Zagreb are obliged to inspect once a year the social service providers to whom they had previously issued permits, in order to determine whether they still meet the conditions, and to notify the MLPSFSP without delay in case of a well-founded suspicion of irregularities.

Counties reported that most of them started conducting inspections in 2022, but there are noticeable differences in the approach and pace of the monitoring – some counties carry out announced inspections, while others do not announce them; some have just started conducting the monitoring, and some, such as Krapina-Zagorje and Zagreb Counties, conducted inspections of all providers of accommodation for older persons and infirm persons operating in their territory.

According to MLPSFSP data, 345 extraordinary inspections of accommodation providers were carried out in 2022 (67 of which were inspections of family homes based on complaints), and part of them related to complaints we sent to the MLPSFSP with the purpose of conducting inspections.

The identified irregularities related to a larger number of beneficiaries than the number established by the license, deficiencies in the spatial conditions (handrails were not installed in bathrooms and corridors, beds with raising and lowering mechanism were not provided for users of the 3rd level service, a fire alarm system was not installed, medicines were not under lock and key), and most accommodation providers lack qualified staff, primarily nurses and physiotherapists.

Recommendation 39

For the founders of the nursing homes that function as public social service institutions, to: ensure funds and equip the homes in line with the needs of their beneficiaries

In a case where we acted on a complaint related to a decentralised home in Zagreb, the inspection determined that the main vertical pipes were leaking, that the parquet floor was worn out and that comprehensive renovation was needed, so the inspectors ordered that the damage to the floors and the walls, the interior woodwork, premises and equipment in the kitchen, etc. be repaired within a year. All of the above leads to the conclusion that besides staff, homes also lack investments in the equipment and the facilities.

In addition to timely investments, the de-centralised homes and their founders should expeditiously repair or replace elevators, which is exemplified by a complaint related to a home in Dalmatia, where the users are seldom taken outside because the elevator is broken, and they are transported to the lower floor for medical exams by being carried down the stairway, which is especially humiliating.

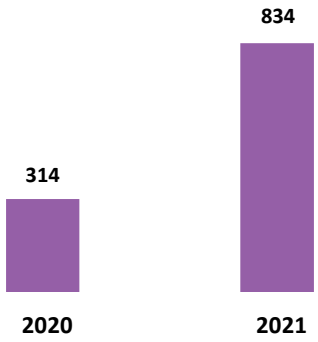
2.6.3. Violence targeting older persons

Data on domestic violence, as well as data on violence against older persons, are published once a year in the form of a report for the previous year compiled by the Commission for monitoring and improving the functioning of criminal and misdemeanour procedure bodies and the enforcement of sanctions related to protection against domestic violence. The Commission's report for 2021 contains only two pieces of data that specifically refer to older persons – the information that 255 cases of neglect of the needs of elderly persons were recorded in the MLPSFSP records, and the MJPA data from the unified court records of misdemeanour acts of domestic violence, which mention 834 elderly victims of domestic violence.

It is evident that the data are not interconnected and do not transparently indicate, for example, how many reported cases of neglect of older persons had a court epilogue (whether all 255 cases of neglect are contained in the number of 834 victims recorded by the MJPA in 2021), how many acquittals and convictions there were and what the duration of the imposed sentences is. Such data are extremely important in order to monitor the occurrence of violence against older persons and the work of bodies that should sanction violence.

The Commission's data indicate a significant increase in the number of elderly victims of domestic violence compared to 2020. More precisely, there were 834 elderly victims in 2021 according to the MJPA data, which is 165.6% more than in 2020, when there were 314 elderly victims. Thus, it is important to conduct an analysis with respect to reasons of such a significant increase.

NUMBER OF ELDERLY VICTIMS
(MJPA data from the unified court records of misdemeanour acts of domestic violence)



There is a lack of continuous monitoring of trends related to violence against older persons not only in families, but in institutions (homes) as well. The research of the foundation "Zajednički put" reveals that both the beneficiaries and the employees of residential homes rarely perceive violence. Thus, we made a recommendation in our 2021 Report to establish a working group dedicated to monitoring the occurrence of violence against older persons, including in families and in nursing homes.

Recommendation 40

For the Ministry of Labour, Pension System, Family and Social Policy, to: establish a working group dedicated to monitoring the occurrence of violence against older persons, including in families and in nursing homes

It is positive that, with the purpose of better and more systematic monitoring within the social welfare system, the MLPSFSP decided to make an analysis of the occurrence and treatment of cases of violence against older persons and compiled a questionnaire that, among other things, should contain data on the type and duration of violence, age, gender and the material status of the victim, the relationship between the perpetrator and the victim and the forms of conduct of the Croatian Social Welfare Institute, which we stressed as necessary.

"A year ago, they moved into my mother's house and ever since they have been harassing and psychologically abusing her every day. Because they want to inherit from my mother. My mother's brother demands that she give all her property to him. I am not allowed to go there because they threaten me. They have recently removed her kitchen and her dishes from the house, so now they won't let her cook and eat in the kitchen; she cooks in the smokehouse and eats in her room. They took her refrigerator to the basement of the house. My mum is only allowed to stay in her room in her own house."

Recommendation 41
For the Ministry of Labour, Pension System, Family and Social Policy, to: educate social workers with respect to all forms of violence against older persons

Recommendation 42
For the Ministry of the Interior, to: educate police officers with respect to all forms of violence against older persons

The complaints we received also raised the question of recognition of violence against older persons by the competent authorities. For example, although the violence is frequently triggered by broken family relationships and conflicts caused by expectations about property inheritance, such conflicts are primarily considered property disputes within a court's competence. Thus, we want to highlight a case where family members who had recently moved in with an elderly person demanded that she transfer ownership of the house and all assets to them, after which they started verbally abusing her and preventing her from using some of the rooms in the house, which was not recognised as violence by the competent authorities.

2.6.4. Lifelong support and support until death agreements

According to the MJPA data, a total of 1,231 agreements on lifelong support and support until death were entered into before the courts in 2022, while the CNCh data state that in 2022, a total of 1,604 until death agreements were entered into before the public notaries (567 notarial acts, 1,037 solemnizations), as were 4,855 lifelong support agreements (2,366 notarial acts, 2,489 solemnizations), which amounts to 7,690 support agreements.

NUMBER OF SUPPORT AGREEMENTS ENTERED INTO IN 2022			
	LIFELONG SUPPORT AGREEMENTS	UNTIL DEATH AGREEMENTS	TOTAL
Before courts	No separate data	No separate data	1,231
Before public notaries	4,855	1,604	6,459
			7,690

The CNCh states that in order to increase legal security, it has intensified its cooperation with the MLPSFSP on connecting the information systems and the data from the social welfare system in order to verify whether any of the contractual parties is under guardianship, as well as whether it is a situation in which a person who provides social welfare or a social welfare employee tried to enter into a lifelong support or support until death agreement with a beneficiary, which is banned by the SWA. This represents a significant shift, especially considering the cases where, despite the aforementioned ban and the fact that such contracts are legally null and void, the owners of nursing homes entered into lifelong support or support until death agreement with the beneficiaries. Nevertheless, it is necessary to put in extra effort because it is evident from the complaints that such agreements are still being entered into.

Complaints pointed to neglect, that is, failure to fulfil contractual obligations on the part of the caregivers; to the verbal and physical violence to which maintenance recipients were exposed after entering into the agreements, which occasionally intensified after they decided to file a lawsuit to terminate the contract; to the exploitation of elderly persons who entered into an agreement even though they suffered from advanced dementia, but formally had legal capacity to do so; as well as to the exploitation of persons with severely impaired health who died shortly after entering into an agreement.

According to our 2019 survey, as many as 63% of the participants who were considering entering into a support until death agreement did not turn to anyone for additional information. Thus, it would be advisable to better inform the citizens, especially the older ones, about such agreements, i.e., through targeted campaigns. In doing so, it is especially important to provide details in advance via legal aid to persons who opt for entering into such agreements with respect to their rights, obligations and the possible consequences. That way, entering into an agreement would still rest on the free will of the persons who decide if they would enter the agreement, but it would be ensured that they are better informed.

In September 2022, a meeting was held in the MJPA, where the Ombudswoman gave recommendations on how to better protect older persons with respect to such agreements.

Recommendation 43

For the Ministry of Justice and Public Administration, to: put in extra effort and establish cooperation with the Ministry of Labour, Pension System, Family and Social Policy in order to prevent conclusion of lifelong support or support until death agreements before courts and public notaries where one of the parties to the agreement operates a social welfare facility or is employed in social welfare

Recommendation 44

For the Ministry of Labour, Pension System, Family and Social Policy, to: create and implement a campaign with the purpose of better informing of the citizens, especially older persons, about lifelong support and support until death agreements

Recommendation 45

For the Ministry of Labour, Pension System, Family and Social Policy and the Ministry of Justice and Public Administration, to: ensure that persons who opt for entering into a lifelong support or support until death agreement are well-acquainted with their legal consequences, via legal aid

We particularly welcome the fact that the MJPA established a working group in January 2023 for the drafting of a proposal for the Act on Amendments to the COA, with the aim of introducing additional instruments for the protection of the maintenance recipients.

Thus, once again we point out the necessary changes to the legislative framework, primarily the COA. First of all, it is noticeable that citizens do not have enough knowledge about the lifelong support and support until death agreements, especially considering that their names are not clear enough and do not show their distinction. There is a big difference between these types of agreements; in case of lifelong support, the caregiver can immediately transfer ownership of the real estate that is the subject of the agreement to themselves, while in case of support until death agreement, this is only possible after the death of the maintenance recipient. Thus, it would be useful to change the names of the types of agreements when amending the COA, so their name would transparently show at which point the property of the maintenance recipient becomes the caregiver's.

Recommendation 46

For the Ministry of Justice and Public Administration, to: prepare the amendments to the Civil Obligations Act that would change the names of the lifelong support and support until death agreements; prescribe the maximum number of agreements one caregiver may enter into and establish a register of lifelong support and support until death agreements

Secondly, it would be good to prescribe the maximum number of agreements one caregiver may enter into. This would help prevent the actions of the so-called professional caregivers who enter into maintenance agreements with as many maintenance recipients as possible exclusively for the purpose of acquiring material benefit, while ignoring the needs of the maintenance recipient.

Thirdly, with the purpose of better monitoring and higher transparency, it would be good to establish a register of lifelong support and support until death agreements, as it would allow the state to monitor this area and the manner of entering into such agreements in practice. Competent courts and public notaries would submit information on the number, type and parties of the support agreements concluded to the register. With the purpose of additional controls of entering into these types of agreements in practice, the relations between parties to the agreement (e.g., children and parents, etc.) could be added to the register, together with the vocation of the caregiver. This is especially important in the context of the previously mentioned maximum number of contracts per caregiver, and it can also act as a deterrent for persons who might enter into the agreements with the intent of misuse.

"I hereby file a COMPLAINT... with respect to a series of reminders and petitions related to a case before the Municipal Court... for which I sent a petition to speed up the proceedings, stating that there has been no change in the status of the case for months, certainly more than a year, and it is a case concerning termination of a lifelong support agreement.
The Municipal Court in ... obviously does not find such a case urgent "by law itself". The case dates back to 2018!"

Fourthly, the long duration of the court procedures for the termination of lifelong support and support until death agreements, which are not labelled in the current CPA (Civil Procedure Act) as special procedures in which the court deadlines would be shorter, still represents a significant problem. In practice, these court procedures take a long time, which is a challenge with respect to other court procedures as well; however, the long duration of these procedures has a particularly burdensome effect on older persons who are the maintenance beneficiaries. Namely, this type of contract is characterised by the fact that one party to the contract is old and infirm and needs care, which is why they concluded the contract, so these procedures need to be conducted urgently. According to the information available to us, the MJPA has not established a working group for the drafting of the amendments to the Civil Procedure Act that would address this problem. In this regard, we received a complaint about the court procedure for the termination of the support agreement that has been going on for five years, and in another case, the preliminary hearing was scheduled almost two years after the filing of the complaint, only after we contacted the court.

Recommendation 47

For the Ministry of Justice and Public Administration, to: prepare the amendments to the Civil Procedure Act that would make the court procedures for terminating lifelong support and support until death agreements urgent

2.6.5. Pension insurance

As in 2021, the CPII had the role of the implementing body for the payment of one-time assistance to pensioners and, according to the CPII data, the so-called energy allowance was paid to 690,055 pensioners, the so-called inflation allowance was paid to 693,542 beneficiaries, and the third tranche of the one-time allowance was paid to 685,887 beneficiaries (part of the pensioners will be paid in 2023).

"I did not receive the COVID allowance, so I visited the CPII to see why. They told me I should have submitted the form indicating that I am not receiving income from abroad. I have no income from abroad. I only receive Croatian pension amounting to HRK 2.540. I worked in Germany only for eight months. Listening to the news, I heard that only people who receive foreign pensions had to apply, so I did not think I had to do that. If I had known that, I would certainly have applied, because who does not need each kuna."

It is evident from the complaints that part of the pensioners who worked abroad, but are not entitled to a foreign pension, did not receive the information that it is necessary to submit a statement to the CPII that they do not receive a pension from abroad. Thus, a complainant addressed us, stating that he had not received the financial assistance and that he had not worked abroad, but it was subsequently established that he should have submitted a statement to the CPII because he had worked in Slovenia for several months in the 1960s. In this regard, we recommended that the CPII intensify the campaign to inform pensioners, and the CPII responded that it continuously informed them through the media, that it sent a request to pensioners' associations, nursing homes, the CRC and Caritas to inform their beneficiaries. They added that the users who were unable to obtain the form related to foreign pension due to health problems, a specific life situation or not being able to use the Internet received it to their home addresses by post, which we welcome and point out as an example of good practice.

When it comes to the duration of the procedures related to the recognition of the pension insurance rights, the CPII points out that procedures with a foreign element, i.e., those to which EU regulations and international agreements on social insurance apply, take the longest. Nevertheless, even those procedures were shortened in 2022 (to 124.6 days) compared to 2021 (127.3 days). In this regard, in some cases the applicants living abroad had difficulty obtaining information on the necessary documents and the status of the case.

During 2022, we received a series of complaints related to inheriting the funds from the second pillar of pension insurance behind a deceased insured person younger than 55. In the above cases, we established that potential survivor's pension beneficiaries, primarily the children of the deceased, were not informed that, if they submit an application for a survivor's pension, the funds on the personal account of the deceased will be transferred to the

Recommendation 48

For the Croatian Pension Insurance Institute, to: provide pension applicants living abroad with timely information on the necessary documentation and the status of the case

state budget. In this regard, it is important that CPII clearly and timely inform applicants for survivor's pension about the consequences that will arise from submitting the application for the inheritance of the funds from the second pillar of pension insurance.

Of the 10,833 persons who became eligible for retirement in 2022 and could choose between a pension from the first pillar or the first and the second pillar of the pension insurance, as many as 7,680, or 70.89%, opted for the first pillar only, while 3,153 people, or 29.1%, opted for a pension from both pension pillars, which indicates that pension from the first pillar only is still more profitable for the majority of the new retirees.

Regarding the amendments to the Pension Insurance Act that entered into force on 1 January 2023, according to which the beneficiaries of old-age, preterm old-age or disability pensions are eligible to use a part of the survivor's pension, which is very positive, the CPII states that it expects to receive some 155,000 applications and that it was agreed within the CPII to increase the number of locations and employees who will receive the applications in all organisational units, so that the applicants could apply for the payment of a part of the survivor's pension as quickly and easily as possible.

2.7. Age discrimination

Although the Ombudswoman's 2022 survey on attitudes and awareness of discrimination and manifested forms of discrimination shows that prejudice against older persons has decreased compared to 2016, it is still present in society.

Increased costs of living, high inflation rate, insufficient capacities for long-term institutional care and lack of non-institutional services for older persons, as well as the lack of adequate measures for reconciling family and professional life that would enable family members to take care of their elderly, together with difficult access to healthcare, which is especially needed in old age, represent significant challenges when we talk about the care for older persons.

The population census showed that the RC is faced with an ageing population that requires an appropriate response. Older people, especially those living in the rural areas, are often left alone, socially isolated , lacking access to the sufficient traffic infrastructure, left without support and money for the basic sustenance, and their access to health or social services is significantly hampered.

Both CSOs and LRGUs (units of local and regional self-government) point to the difficult living conditions of older people living in areas with no traffic connections. Therefore, the initiatives of LGUs that provide their pensioners or people over 65 years of age with free transport, including the co-financing of travel expenses for medical treatments in larger city centres, such as the town of Požega, are extremely valuable.

It is important to ensure the necessary help and support for older people who stay in their homes but need help, such as the social service of in-home assistance based on the SWA or the "Zaželi" project. The CRC states that the conditions for receiving in-home assistance listed in the SWA are extremely strict, which results in a smaller number of beneficiaries who meet the criteria. Thus, they point out that the criteria for becoming eligible for in-home assistance should be modified. The "Zaželi" project, which also provides support for the older persons who remain in their households, is implemented on a project basis, so the necessary service is not continuously available.

Therefore, in conditions where the necessary in-home assistance is provided only to a portion of those in need of it, while a significant number of older persons and the infirm live alone and without support,

it is necessary to emphasise the insufficient number of available places in institutional care. In combination with the lack of the appropriate social services, opportunities for abuse arise, putting older persons in a vulnerable position. Although the Constitution of the RC stipulates that children are obliged to take care of their old and infirm parents, regulations still do not allow either the exercise of the right to sick leave to care for sick parents or grandparents, or the granting of a caregiver status in such cases. The amendments to the LA ensuring the right of an employee to unpaid leave of five working days per year to provide personal care to a close family member are positive. However, this does not guarantee suitable care for old, seriously ill and infirm family members. A welcome novelty is the possibility for an employee to ask the employer to work remotely in order to reconcile work and family obligations and personal needs, including the provision of personal care that, due to serious health reasons, is needed by a member of the immediate family or a person who lives in the same household as the employee. Unfortunately, this is not applicable for u number of jobs where the physical presence at the workplace is necessary.

The inadequate capacities of nursing homes for long-term institutional care still affect the quality of care provided to older persons. The need for urgent accommodation of patients who suffered a stroke or other illnesses affecting the potential beneficiary and their family represents a prominent problem. Waiting lists for institutional care are very long, partially because of the way they are managed. There are encouraging examples in the Šibenik-Knin County, where the beneficiaries wait for accommodation between three months and a year. Thus, it is necessary to urgently design a new and transparent way of the management of the waiting lists, and the institutions providing long-term care should be additionally strengthened by employing an adequate number of employees.

The complaints we receive and our field work point to the fact that the homes for older and infirm persons do not have enough medical staff, so care assistants take care of the beneficiaries during the night. For example, in one of the homes that we visited, there was almost never a nurse on night duty, and according to the available records, during 2022, users were left to care assistants without medical staff for as many as 200 nights.

We should also not ignore the connection between insufficient services and capacities to care for older persons and the cases of violence against them and with the number of lifelong support and support until death agreements, which we discuss in a separate chapter.

Despite the one-off financial assistance that was paid to pensioners in several rounds due to the increase in the costs of living, the material situation remained one of the biggest problems for older persons, i.e., the pensioners. According to the criteria prescribed for one-off payments, pensioners who are residents of the RC do not meet the conditions for the assistance even when they have extremely low pensions, simply because they are not insured by the CPII, but have earned their pension abroad.

During 2022, we received numerous complaints from pensioners, especially those who earned their pensions in the former SFRY countries, pointing out the unfairness of such criteria. Having in mind the provisions of Articles 3 and 58 of the Constitution of the RC, we recommended that the competent authorities design measures that will provide financial assistance to all pensioners who live at risk of poverty due to the amount of their pension, regardless of where they earned it.

Recommendation 49

For the Government of the Republic of Croatia, to: ensure the financial support for pensioners who are at risk of poverty and have earned their pension abroad

"As a national of the Republic of Croatia, where I also permanently reside and receive my pension from Bosnia and Herzegovina, I am not eligible for the energy allowance because I did not earn my pension in Croatia. So, simply because I don't receive pension in the Republic of Croatia as well, and I live here, I am not eligible for the assistance that would protect me from the shock of the increasing prices… while establishing the basis for the calculation of the energy allowance for my wife, they added the BiH pension to her Croatian pension, thus decreasing the basis for the energy allowance that she would receive if only her Croatian pension was taken into account. So, the pension earned in the BiH is eligible in such case, while in my case it is not eligible, even though I am equally struck by the price shock as a Croatian citizen residing in Croatia."

In the proceedings we conducted based on the CPU's complaint, the issue appeared with respect to verifying the official data that serve as the basis for the payment of the various types of financial assistance to pensioners. The right to the payment of the so-called COVID-19 relief payment was not granted to a 94-year-old illiterate pensioner with a pension of HRK 1,200.00, who has lived since 1987 at the address where she was issued an identity card with a permanent validity period, and to which her pension was delivered by mail until her death, because she did not have regulated residence, which she did not even know. Her place of residence was deregistered *ex officio* in 2014, so she did not meet the residence requirement either on the date of the entry into force of the Decision on the COVID-19 relief payment, or on the date when the data for the payment of the above supplement were processed. Thus, according to the CPII's interpretation of the Decision, she could not be paid the COVID-19 relief payment. However, the MI stated that unregulated residence does not mean that individual citizens have not lived in a certain place, indicating that continuous living at a certain address can be proved by other means of evidence suitable for establishing the factual situation in accordance with the GAPA, not exclusively by a certificate of permanent residence.

We pointed out that the above situation can be considered indirect and intersectional discrimination, whereby certain categories of citizens are not in an equal position due to some of their characteristics. Due to a grammatical instead of a teleological interpretation of the conditions stated in the regulation, in combination with the personal characteristics of the mentioned woman, i.e., her education, health status and age, she did not receive the COVID-19 relief payment, even though the goal of its implementation was to help poorer citizens, which was the case with the above pensioner.

We also pointed out the discriminatory effect of Article 50 of the CHIA, which stipulates that an insured person who has reached the age of 65 and has 15 years of pensionable service on the basis of employment or self-employed work does not have the right to salary compensation at the expense of the CHIF during sick leave, but that it is paid to them at the expense of the employer, or by themselves if they are liable to pay the contribution. With the amendments to the CHIA at the beginning of 2023, the age limit was simply increased to 70, which did not remove the discriminatory effect.

During 2022, we also received complaints indicating the denial of healthcare to older persons. Thus, a complainant, who subsequently did not want the proceedings to be conducted, stated that the emergency physician did not want to listen to the patient or his family members during the intervention and, establishing the wrong diagnosis, she refused to take the patient to the hospital even though he had an emergency referral. The complainant believed that her father's age was the reason for the denial of healthcare, and she concluded that *"when you are 76, you are just an old man in the eyes of the healthcare system"*.

We received a similar complaint regarding an elderly patient whose condition had been worsening for days, and in the end an unrecognised aneurysm ruptured. The doctors who had been examining him did not conduct a single laboratory test, and the patient was thoroughly examined only after he arrived to a different, bigger hospital. The "StarKa" association also points to the easy neglect of the health problems of elderly patients, stating that in healthcare institutions, comments about the age of the patients along the lines of *"they are lucky to be alive at all"* can often be heard.

We also received a complaint stating that the age of the project holder was also determined as a criterion for selecting projects intended for small farms. With the aim of increasing the number of young farmers as owners of farms, the criteria related to the age of the project holder were set so that older people can achieve a significantly lower number of points, which reduced their chances of receiving subsidies. As this Programme also includes "Support to young farmers" operation, aimed specifically at young people, we pointed out that the introduction of an age criterion that has an overly burdensome effect on older project holders in types of operations that are not specifically intended for young people, may represent a violation of the provisions of the ADA.

The digitalisation of the access to the public services also has a significant impact on the inclusion of older persons. According to the research conducted by the Faculty of Organization and Informatics in the City of Zagreb and Varaždin and Primorje-Gorski Kotar Counties on IT literacy of the persons with disabilities, pensioners and residents of rural areas and islands, as many as 54.1% (out of a total of 540 respondents, of whom 57.2% were older than 55) do not use digital services nor do they have a need for them. A total of 35.6% of respondents do not consider the use of digital service e-Citizens necessary, largely because they need help to use it, which represents information that should definitely be kept in mind when taking measures aimed at the digitalisation of the public administration. Therefore, once again we point out that, in addition to publishing information on the exercise of rights on websites, it is necessary to provide them in the physical form and through direct contact with the citizens, while at the same time the computer literacy of older persons should be supported and encouraged, so that they are not excluded from the new digital world.

2.8. Young people

With the aim of empowering young people for equal participation in the life of the EU and including youth policies in all EU public policies, 2022 has been declared the European Year of the Youth. More than 12,000 events were held, culminating in the inclusion of young people in the work of the Conference on the Future of Europe – a platform through which young people were given the opportunity to participate in determining the key priorities of the EU in the future period. At the international level, under the auspices of the UN, the year was marked by the establishment of the UN Youth Office with the aim of strengthening intergenerational cooperation and solidarity, more intensive involvement of young people in all areas of UN activity, but also sending a clear message to decision-makers and implementers around the world about the importance of recognising and placing a clear emphasis on the issues and problems important to young people.

The RC joined the marking of the European Year of Youth and, according to the data of the Central State Office for Demography and Youth (CSODY), 1,160 different activities were registered on the European Youth Portal, the implementation of which, according to the statements of youth associations, marked their activities during 2022. The Ombudswoman also participated in one such activity, EYE Varaždin, which gathered over 600 young people from the RC and abroad.

The initiative was motivated by the understanding that young people bore a significant burden of the measures to combat the epidemic, which we wrote about in the annual reports and especially in the special report "The impact of the COVID-19 epidemic on human rights and equality – Recommendations for strengthening the resilience to future crises", prepared in cooperation with the ombudswomen for children, for the persons with disabilities and for gender equality.

The fact is that the epidemic only deepened the difficulties young people had already been facing.

The RC records a relatively high rate of fixed-term workers, a significant share of whom are young people. In the annual report on the implementation of the European Semester in the RC for 2022[vii], the EC emphasized a particularly high rate of involuntary fixed-term employment in the age group of 15 to 29 years that reached 25% in the RC in 2020, while the EU average was 12.2%. At the same time, the share of young people aged 15 to 29 who do not work, are not in the regular education system and are not in the adult education system – the so-called NEET in the RC was 14.9% and was above the EU average (12.3%). Fixed-term work brings uncertainty and instability of employment, which then spills over into insecurity in other areas of life. Young people employed in such way find it harder to move out from their parents' residence, to resolve their housing needs, and they face more significant obstacles when planning their own future.

The difficulties related to the fulfilment of the housing needs, which we discuss in a separate chapter, have an unfavourable effect on the exercise of the right to housing of all citizens, especially of certain groups, among whom are young people. According to Eurostat data, the RC was the leading country in 2021 in terms of the high age at which young people leave their parents' homes, standing at almost 35 for men and over 30 for women. Furthermore, according to the research of housing statuses and housing needs in Zagreb, carried out by the Right to the City initiative at the end of 2022, there is a noticeable age discrepancy in housing statuses: while older persons are mostly owners of residential real estate unburdened by loans, and the middle-aged are mostly owners with loans, most of the young people are tenants, representing at the same time the group least satisfied with their housing status.[viii] There are positive initiatives in some counties that include demographic measures intended for solving the housing problems of young people, such as the Karlovac County, which implements a housing care programme for young people by allocating non-refundable grants for living in rural areas, while the Primorje-Gorski Kotar County plans to implement measures to solve the housing issues of young people through long-term rental of apartments.

Under the influence of the epidemic and the measures to contain it, the earthquakes in the RC, the economic recession and the influence of the Internet and social networks, the mental health of young people has become an important social issue. Numerous research points at serious consequences of the above circumstances for young people. At the joint thematic session of the parliamentary Committee for Gender Equality and the Committee on the Family, Youth and Sports with respect to the topic "Mental health of children and young people", it was stated that 20% of children and young people suffer from impaired mental health, and only 20% of them receive help and are treated. In addition, information was also presented that there a drastic increase in suicide attempts among children and young people has been observed over the past year, with girls being particularly vulnerable; thus 50% of children and young people treated at the Psychiatric Hospital Vrapče had attempted suicide. The research conducted by the Institute for Social Research to establish scientific monitoring of the effects of the pandemic and the earthquakes on the education system recorded a slight shift from a negative to a neutral assessment of the impact of the pandemic on the lives of children and young people among all observed generations. However, 36% of third grade high school students still assess the impact of the pandemic on their mental health as negative. There are

significant gender differences, with 45.6% of female and 25.4% of male third graders reporting a negative impact of the pandemic on their mental health.

The Strategic Framework for Mental Health for the period ending in 2030 was only adopted in late 2022. It is necessary to create a series of action plans with exact measures and activities, so its effects will be visible in the upcoming period, including in the context of young people.

When considering the difficulties that young people face in exercising their rights, it should be kept in mind that they are not a heterogeneous group. Observed intersectionally – their position in society, the obstacles they face and the degree to which they are able to exercise - their rights are influenced by their age, socio-economic status, racial or ethnic origin, migrant status, sexual orientation, gender identity and expression, disability, family circumstances and other factors.

We wrote about the necessity of the social inclusion of young people from the alternative care in previous years, recommending that the social service of organised housing be provided to young people up to the age of 26, and that the possibility of allocating social housing to GMB users should also include this group of young people in order to prevent their homelessness. We are glad that these recommendations were adopted in the new SWA.

However, young people in the alternative care face other obstacles as well. Thus, for example, according to SOS Children's Village, after leaving care, young people have difficulty paying for supplementary health insurance due to their non-existent or insufficient income, and mental health protection services within the healthcare system are available seldom and only in certain areas. In the social welfare system, they do not get enough information about their rights and face unclear and extensive procedures, insufficient contacts with social workers assigned to them and their frequent changes, which makes it difficult to establish trust. Because of this, but also due to the fact that LRGUs often do not recognize their specific situation and the need to provide social housing, such young people encounter difficulties in this area as well. Additionally, the society is not informed and aware enough about the need for additional support for this group of young people.

We have been pointing out for years the specific (unfavourable) position of the population of rural and island areas, whose problems, of course, do not bypass young people, who are also faced with the lack of the appropriate social content. Young people from rural areas who are no longer in school, but are not employed either, and who find it particularly difficult to overcome the issue of traffic disconnection and high transportation costs to cities are in especially disadvantageous position, the CRC points out in its statement.

The earthquakes that struck the Sisak-Moslavina County in 2020 additionally aggravated the position of young people. The project "(Re)Build – reconstruction, revitalisation, regeneration and building a better society", which was carried out by a number of associations from this area, mapped the needs of young people from that county. Young people recognised the following important problems in their communities: housing 41.3%, poverty 42.4%, addiction and alcohol consumption 42.8%, and unemployment and poor education system 44.3%. A significant percentage of young people recognised mental health as an important problem (45%), while most of them highlighted the lack of life perspective in their community (49.1%).

Today, young people's lives are largely shaped by the Internet, and according to our research on their experiences with hate speech, in the past five years, almost every other young person was in a situation that someone sent hateful comments or expressed intolerance to him/her, while a third of them encounter hate speech on the Internet almost on a daily basis.

A number of studies point to the low political literacy of young people and their insufficient knowledge about human rights, as well as to the low level of political participation and trust in institutions[ix], which points to the importance of education in the area of human rights. With the adoption of the curriculum for the cross-curricular subject Civic Education for primary and secondary schools in the RC, the curriculum for this cross-curricular subject was adopted and has been implemented from the academic year 2019/2020. However, it is questionable whether students and teachers can pay enough attention to the content that must be learned at school without the introduction of a separate subject, in order to ensure that young people will be active citizens of the democratic society in the future.

Therefore, it would be important to evaluate the organisation and the implementation of the civic education in the Croatian education system through a broad dialogue of decision-makers with all relevant stakeholders (teachers, pupils and students, scientists and researchers dealing with education topics, the civil sector, etc.). It is important to provide such content through various activities to young people older than 18, especially to those who are not included in the formal education system.

Recommendation 50

For the Government of the Republic of Croatia, to: adopt the National Youth Programme

The importance of the establishment and implementation of a strategic framework in the field of youth has been recognised globally, so in 2018 the UN adopted the "Youth 2030: The UN Youth Strategy"[x], while the EU adopted a strategic framework focused on young people with the aim of their stronger social inclusion and on the strengthening of their civic participation.

Nevertheless, the RC has still not adopted the National Youth Programme, despite the fact that the previous strategic programme pertaining to this area expired in 2017 and the working group for the drafting of the next one was established in mid-2021. Counties such as Koprivnica-Križevci and Istria that adopted their own county youth programmes represent a positive example.

At the same time, as it was noted at the roundtable discussion "The non-existence of the national youth programme" held in October 2022 in the Croatian Parliament, currently there is only one act in the RC of the strategic or legal importance that deals exclusively with young people – the Youth Councils Act. Its intention is to include young people in the decision-making process both at the regional and the local levels. Nevertheless, according to data pertaining to 2021, only 127 out of 576 LRGUs have established their youth councils, of which only 73 were active. In January 2023, the amendments to this regulation were sent to e-consultations, and it still remains to be seen whether they will bring about any qualitative change in this area.

According to the statements we received, in some counties, such as Karlovac and Osijek-Baranja Counties, cooperation has been established with the youth councils, which are involved in the activities related to young people and their interests and who actively participate in creating social content. At the local level, activities related to young people as a rule, come down to providing scholarships for continuing education, subsidies for student transport and other forms of assistance to young people from socially disadvantaged families, while some LGUs provide support to CSOs of young people and for young people.

2.9. Right to education and education-based discrimination

Important determinants of the education system include the availability of education (establishment and financing of educational institutions), its accessibility (free primary education for all, and secondary and higher education in line with certain abilities), acceptability (education of a certain quality, in line with certain standards) and adaptability (adapted to different groups). It is important to recognise how educational inequalities reflect in various segments of the education system, but also that they are interconnected.

Data published in the publication "Educational Inequalities in Croatia: Challenges and Needs from the Perspective of the Stakeholders of the Education System" show that school success of secondary school students is still closely related to their socio-economic status, gender and geographic region. As further stated, with a share of 36.6%, the RC has a lower share of people with higher education degrees than the EU average, which is 40.3%. Particularly, we note the small number of adults participating in lifelong education – 3.2% in the RC, compared to 9.2% in the EU.

The data obtained in the above research cited above show that the student population in the RC has parents of a higher socio-economic and educational status than the average for young people. The most common causes of inequality in the higher education system are the low economic status of students, attending studies while working, living in rural areas and places far from university centres, inequalities related to gender differences, being LGBTIQ+ students, being parents and belonging to the Roma national minority.

The so-called rural-urban criterion of inequality was observed, reflected in poorer access to information about studying, as well as problems related to housing costs and increased costs of living outside the parental home, all of which make higher education difficult to access or inaccessible.

The application for state scholarships for full-time students studying at universities in the RC can only be submitted electronically, which can make participation in the tender difficult for students who, due to their poor financial situation, do not have a PC or Internet access, and for whom the scholarship is intended. However, the MSE (Ministry of Science and Education) states that students could have used IT classrooms, libraries or other points of access to IT or other so-called smart technology equipment for the purpose of logging into the system, while for Internet access they could have used the free Internet access service Eduroam.

We welcome the recognition of the need for financial relief for students and their families by increasing the amount up to which a person can be considered a dependent family member to HRK 24,000.00 from 1 January 2023, which applies to the tax period from 1 January 2022.

The complaints we receive point to problems in the interpretation of the regulations governing the field of education. Their often mechanical application sometimes makes it impossible to exercise legal rights, such as in the case of a student residing on an island who contacted us because she could not exercise the right to preferential transport in line with the Ordinance on the Conditions and Manner of Exercising the Right to Special Transport in Public Maritime Transport Routes. Namely, the Ordinance stipulates that only students of Croatian higher education institutions have this right, while she studied in another EU country. Such rules are in collision with the Bologna Process. Having that in mind, the MMATI committed to take this into account in the new Ordinance and ensure the same right to all students residing on the Croatian islands, regardless of where they study.

Although students under international protection are guaranteed the right to higher education under

the same conditions as Croatian citizens, the 2013 Ordinance, which regulates the right to partial food cost subsidies for students, does not mention them. Recognizing the omission, the MSE regulated the issue of their food cost subsidies through a special decision, and a new ordinance is currently being drafted, which will systematically regulate the issue of food costs for the above category of students.

The new ASAHE defines the status of full-time and part-time students in more detail. However, their rights are regulated by internal acts of higher education institutions, which often do not take into account the specificities of studying alongside work, which requires that classes and exam dates be adapted to the needs of working students. According to a study conducted by the Institute for Social Research[xi], those who, in addition to working at the same time while studying, pay for their studies themselves are at a greater risk of dropping out. Part-time students who are in a vulnerable position have the option of paying tuition in instalments or as a percentage, while part-time students from earthquake-stricken areas are exempted from paying tuition at some higher education institutions.

In 2022, we also received complaints related to the non-recognition of qualifications obtained at undergraduate professional studies. Thus, after the change in the systematisation of workplaces, graduates of specialist undergraduate professional studies were prevented from performing professional work, although the qualification acquired upon completion of a specialist undergraduate professional study is defined as one that confirms the appropriate level of knowledge and skills that enable performance of the profession and allow direct inclusion in the work process, as well as life and work in a changing socio-cultural context according to the requirements of the market economy, modern information and communication technologies and scientific knowledge and achievements and in accordance with social needs and lifelong learning.

Analysis of educational inequalities also recognised challenges in relation to adult education, which partly arise from the poor situation related to the inclusion of adults in education system in the RC and from the slow reform of the adult education system. The participants of the analysis indicated 1) personal obstacles – lack of time, lack of financial resources, insufficient knowledge or lack of self-confidence; 2) obstacles related to the method of preparation and implementation of the programme and 3) obstacles related to systemic solutions. They particularly highlighted inequalities in relation to socio-economic characteristics, age, residence and disability of potential participants as factors.

We received complaints related to the non-recognition of qualifications acquired through adult education programmes by professional chambers, which opened up the issue of public authority granted to chambers in regulated professions as well as the issue of their supervision.

When it comes to education, the year was marked by the adoption of the new Act on Higher Education and Scientific Activity, preceded by an extensive public discussion, during which the MSE received more than 2,300 comments. The effects of the new Act on the higher education and science system remain to be seen in the upcoming period.

The difficulties in conducting the state graduation exam were covered by the media and resulted in the amendments to the Ordinance on Taking the State Graduation Exam. The case of a high school graduate who had her Croatian language state graduation exam annulled because she accidentally signed it by name pointed to the need to define clear, precise and mutually agreed legal norms, but also to hold additional training for all stakeholders in the state graduation exams system.

Although Article 18 of the Constitution of the RC guarantees the right to appeal against individual acts, which can be excluded only in cases specified by the law and under the condition that other legal protection is ensured, the question of the right to appeal against decisions on the annulment of the entire or a part of the state graduation exam at a specific exam location or on the annulment of all passed state graduation exams, was not regulated by the relevant ordinance, and this has likewise not been regulated by the latest amendments to the Ordinance.

Furthermore, the decision to reject the appeal of nine graduate students of the School of Applied Arts and Design due to the failure of the exam coordinator, who did not forward their timely appeals to the competent authorities for further action on time, was also questionable. Considering that the complaints were filed to the competent authority within the deadline, they should have been treated as timely and acted upon.

Problems related to internships of healthcare workers have not been resolved in 2022 either, so the number of internship openings is still much lower than the actual number of candidates who have completed the education and need an internship. Under such conditions, the healthcare workers, of whom there is a shortage, wait for internships for years, unable to get jobs in line with their profession. According to some estimates, at the time of the drafting of this report, approximately 3,000 persons were waiting for an internship position, with only 900 intern positions being available.

Due to the lack of regulations in the profession of Master of Medical and Laboratory Diagnostics arising from the lack of harmonization of the national regulations with the relevant European legislation, persons graduating from this programme are prevented from accessing the labour market. Therefore, in our Report for 2021, we issued a recommendation to the MH to amend the Healthcare Professions Act by adding Master of Medical and Laboratory Diagnostics as a level of education, but this recommendation was not implemented.

Regarding discrimination on the grounds of education, we also received a complaint related to the actions of the Croatian Chamber of Social Workers (CCSW), which, by misinterpreting Article 7, paragraph 1, item 2 of the Social Work Profession Act, refuses to recognise a foreign professional qualification for performing the regulated profession of social worker for those social workers who have obtained the title of Master of Social Work, but who had completed a study other than the study of social work at the undergraduate level. Due to similar practice, we warned the CCSW in 2017 that the professional conditions for performing the duties of a certain position should be considered systematically, having in mind the regulations in the field of higher education, which, in line with the Bologna education system, allow for the mobility of students.

2.10. Social welfare: Poverty and human rights

2.10.1. Social welfare system

Reducing the risk of poverty, social exclusion and inequality in society are among the social policy priorities of the Croatian National Development Strategy until 2030. National plan to Combat Poverty and Social Exclusion 2021-2027 predicted a reduction in the risk of poverty rate to 17.6% in 2021 and to 17.2% in 2022. However, contrary to such predictions and plan, the latest available data from the CBS show that the poverty risk rate in 2021 increased compared to 2020 and amounted to 19.2%. Despite the Government's measures, it is to be expected that not even the data for 2022 will show a reduction in the risk of poverty rate, considering the inflation and the rise in prices of all products and services.

According to the CBS, the inflation rate in 2022 was 13.1%, with the largest annual price increase observed in the categories of costs related to the basic life needs, i.e., the *Food and non-alcoholic beverages* (19%) and *Housing, water, electricity, gas and other fuels* (16%).

In addition, scientists have recently been increasingly pointing out that the inflation rate does not have the same effect on all citizens. Examining the effects of inflation on households according to their

income, a team of researchers from the Institute of Economics showed that over the 20-year period ending in 2021, i.e., before the high inflation in 2022, the above-average price growth was experienced by the above mentioned categories of food and utilities, for which poorer households allocate more in the consumption structure. The research showed that the basic monthly costs for the 10% of the poorest households areas much as 10.8% higher than those for the 10% of the richest households, that is, that inflation hits the poor households more often and harder.

In such an environment, the exercise of the rights from the social welfare system in 2022 was also marked by the implementation of the new SWA, accompanied by difficulties and inconsistencies.

The SWA entered into force on 17 February and was amended on two occasions during 2022. With the first amendment, social welfare benefits and services were also granted to persons under temporary protection, which we also proposed in order to harmonise the act with the EU Directive 2001/55/EC *on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*. The second amendment referred to the unification of the date of recognition of the right to the status of a parent carer or caregiver and the compensation for personal needs, thus with the amendments, the beginning of the recognition of the right was subsequently set to 17 February 2022, i.e., the date of entry into force of the SWA. We participated in this consultation, proposing that the same unevenness in relation to the recognition of the GMB be corrected via amendments, which we discuss later. We also proposed amendments regarding the annotations of claims and a better regulation of accommodation in crisis situations. None of the recommendations were accepted.

The new SWA also brought positive changes for the poorest citizens who need support to meet basic life needs, in the form of an increase in the ratio for calculating the GMB. Then, in February 2022, the GMB was increased from HRK 800 to HRK 1,000 on the grounds of the Decision on the base amount for the calculation of the GMB. Despite this increase and the fact that the GMB users can receive some other benefits, it is still a far too small an amount to ensure a dignified life. According to the latest available data from the CBS for 2021, the share of expenditures for social exclusion in the RC is 0.4% of the GDP, while the EU-average is 0.7%. The GMB certainly helps to meet some of the most basic needs, but it does not provide an escape from poverty. In order to have this effect, the GMB should be linked to the poverty risk threshold or the minimum wage and take into account the inflation rate applicable to poor households.

A COMPARISON OF THE POVERTY RISK THRESHOLD AND THE GMB ON ANNUAL LEVEL

Poverty risk threshold in 2021 for one-person households according to the CBS	The GMB for working-age single person (one-person household) in line with the new SWA	Poverty risk threshold in 2021 for households with two adults and two children according to the CBS	The GMB for a household with two working-age persons and two children in line with the new SWA
HRK 36,461	**HRK 12,000**	**HRK 76,568**	**HRK 33,600**

During 2022, we continued receiving complaints about insufficient information provision to the potential and the existing users of the social welfare benefits and services. At times the citizens are not acquainted with the procedures so they file complaints and appeals against the decisions or the practices of the SWC to us, with some of the complaints
plainly stating that even after communicating with the

competent SWC they could not get any information or explanation. With respect to the fact that we have been encountering this issue for years and that the amendments to the SWA brought about changes in the social welfare rights, six months after its entering into force, in the period from 22 to 25 August 2022, we conducted our own analysis of the websites of the centres, trying to ascertain how informative they were for their users. Additionally, we examined the accessibility to the social welfare rights through the administrative burden imposed upon a potential beneficiary when initiating a procedure for the recognition of the rights. The analysis was additionally encouraged by the observed regional inequality in the availability of the social care rights, which we have been highlighting for years and which has also been identified by the mentioned National Plan, as well as by the fact that from 1 January 2023 and the start of the work of the Croatian Social Welfare Institute, the system has been additionally centralised, which should also result to more standardised treatment.

Recommendation 51

For the Ministry of Labour, Pension System, Family and Social Policy, to increase the base amount for the calculation of the guaranteed minimum benefit

Research How to exercise the social welfare rights? Availability of information and administrative prerequisites for access to benefits in the social welfare system – GMB and one-time benefit".

The analysis encompassed all 82 social welfare centres from the MLPSFSP's address book.

When assessing the informativeness of the websites, we examined whether the citizens can find information about the SWA and the rights in the social welfare system, and whether this information is comprehensive and clear. Our analysis confirmed regional inequalities even with respect to access to information, since the centres' websites were not uniform and therefore did not provide the same scope and quality of information. Browsing most of them, it was impossible to find the SWA text or only the "old" version of the act was available. A quarter of websites did not provide any information about the rights in the social welfare system, three-quarters of them listed the rights and services stipulated by the old SWA and only two centres displayed the fully updated benefits and services, aligned with the applicable SWA. The rights were mostly described in a very formal and complicated language, in most cases only by listing (slightly simplified) provisions from the SWA. In addition, most websites failed to provide information on the details of the process of acquiring the rights, the deadlines and legal remedies. A subsequent analysis conducted one year after the SWA entered into force and more than a month after the CSWI (Croatian Social Welfare Institute) began working, established that at that moment 57% of the websites were still the SWC sites, while 42% were not functional at all, with the contents of one site, named "the regional office of the CSWI", unavailable. Thus, Croatian Social Welfare Institute should either create a single website or make the regional centres' websites uniform and updated in order to present uniform information pertaining to all

benefits and services, the procedures for obtaining them, the deadlines and legal remedies, written in a plain and understandable language, simultaneously making the same information available in the printed form as well.

Furthermore, we examined the administrative burden imposed on the citizens when starting a procedure for the recognition of the social welfare rights by analysing the documentation that (potential) beneficiaries need to collect when they start the procedure for the recognition of two benefits that we singled out as representative – the GMB and the one-time benefit.

Recommendation 52

For the Croatian Social Welfare Institute, to: ensure uniform and easily understandable information on their website regarding all rights and services, the procedures for obtaining them, the deadlines and legal remedies, as well as to make the same information available in the printed form

Recommendation 53

For the Croatian Social Welfare Institute, to: create request forms for all rights and services, which are to be used by all regional units, together with a uniform list of documents needed to prove that a person meets the conditions from the Social Welfare Act

These two benefits are the primary cause why the citizens address the Ombudswoman.

In the case of the GMB, most centres used the identical or slightly altered request form, which is positive. Nevertheless, we found big differences in the type and number of documents required when submitting the request form for the GMB, with most of the documents being certificates from the registers of other public administrative bodies that can be obtained *ex officio*. Thereby we concluded that submitting a GMB request is administratively burdensome for the citizens.

In contrast to the GMB forms, the centres do not use a uniform application form for a one-time assistance, and different accompanying documentation is requested, some of which can be obtained *ex officio*, and sometimes documents are requested that do not serve as proof for any of the conditions for the recognition of this benefit according to the SWA, for example a certificate from the CES or a certificate of (non)ownership of a vehicle. Thus, for getting the same benefit, citizens in some parts of the RC fill in very complex request forms and supply a number of accompanying documents, while other enjoy easier access because the form is simple and fewer documents are required.

Although our analysis focused on two separate benefits, the submission of requests for all benefits and services must be uniform, given that these are rights guaranteed to everyone equally at the national level, and the procedure itself should be as simple as possible for the citizens from the administrative point of view. The ministry in charge of unification also recognises that the criteria for allocation of social benefits were uneven.

In addition to the differences, we established regarding these two benefits or rights, empirical research in the past year also confirmed the inequality in access to social services. The first national study on the accessibility of social services published in 2022 shows that for some groups, such as young people at risk, families at risk, people with disabilities and national minorities and refugees, none of the social services defined by the research can be considered accessible in the RC.

2.10.2. Support for the poorest

Although the National Development Strategy lists the decrease of inequality and the development of a regional dimension of the fight against poverty among the social policy priorities, the implementation of the SWA failed in this part, creating new inequalities.

Namely, the social welfare centres were supposed to carry out procedures in line of their duty in order to determine whether the existing users meet the conditions for the recognition of benefits under the new SWA, whereby the day of the recognition of the new increased GMB is the day of the initiation of the procedure, which should have been carried out within six months from the entry into force of the SWA.

It is clear that the centres could not "physically" initiate all the procedures on the same day and that the new SWA put a huge burden on the already overburdened social workers. This could have been predicted and all the dilemmas could have been avoided by a more detailed drafting of the Act, e.g., by setting a universal date of the recognition of rights to all beneficiaries who still met the conditions. As this was not done by a SWA provision or a subsequent instruction of the MLPSFSP, the inconsistencies became visible very soon, and citizens started contacting us already in the first half of the year, complaining that the increased GMB was granted earlier to some and later to others. In order to correct this, during the process of the drafting of the amendments to the SWA set to correct the same inconsistency with respect to other benefits (remuneration for a parent carer or caregiver and compensation for personal needs), we proposed that the date of the entry into force of the SWA be set as the date of the recognition of the right to the GMB to the existing beneficiaries.

Recommendation 54

For the Ministry of Labour, Pension System, Family and Social Policy, to: prepare the amendments to the Social Welfare Act in order that the beneficiaries of the guaranteed minimum benefit in line with the old Social Welfare Act who still meet the conditions are recognised the right to the benefit since the day of entering into force of the new Social Welfare Act

In addition, by collecting data from all centres we confirmed that there were differences in granting the GMB to the beneficiaries in different parts of the RC, but also to the beneficiaries of the same centre. A significant part of the centres decided to act more favourably towards the beneficiaries and formally initiate the procedure on the date of the entry into force of the SWA or the Decision on the base amount, and the users were paid the differences after the procedures were completed. However, 48% of the centres that submitted the data to us had initiated the procedure on a different day within six months, meaning that their users received different amounts. Besides that, we found that as much as 90% of the centres did not complete the procedures within six months, and the citizens complained to us as late as December that they were receiving the amount in line with the "old law". Even though the compensation is national and the Constitution of the RC guarantees everyone equality before the law, the failure of the competent ministry to prescribe an adequate provision in the SWA itself or give instructions subsequently and the way some of the centres acted resulted in the inequality of the poorest citizens. Thus, without being able to influence it in any way, some beneficiaries started receiving a higher amount as early as March, and some continued to receive a lower amount until the end of the year – for singles, the difference amounted to between EUR 26 and 50 per month, and for some families it was even larger.

Thus we repeated our recommendation to the MLPSFSP that the right to the GMB should be granted to the existing beneficiaries beginning with 17 February 2022, but we received no reply.

"Could you please help me or clarify the situation to me if possible. I believe that my guaranteed constitutional rights are jeopardised, and it comes down to this: This year, the new Act on the Guaranteed Minimum Benefit was adopted: (…)If that is so, why do I still receive the guaranteed minimum benefit amounting to HRK 800 (I enclosed the printouts from my account in ZABA since March until this day), while in line with the Decision of the Social welfare centre (also enclosed) I have the right to receive the 100% of the basis, which amounts to HRK 1000 according to the new Act?"

In addition to the inequality in the granting of the GMB, the beneficiaries of this assistance also contacted us about the claim annotations, which were reintroduced by the new SWA on the person's real estate serving as their primary residence as well. Namely, the RC reserves the right to a refund of funds paid under the right to a guaranteed minimum benefit or the organised housing or accommodation service (except the accommodation in crisis situations), and this refund is ensured by entering a claim note on the property of the beneficiary of social assistance. Unpleasantly surprised that the state is now "registering" its right to their only real estate property, the one they live in, but also poorly informed about the effects of annotation of a claim, they pointed out that GMB is no longer a social benefit but a kind of a "loan". They also stated that the centres did not know how and from when the refund amount would be calculated, and that they also did not know if and how the beneficiaries could sell their property. Considering that this decreased the accessibility of the GMB because many users, due to the lack of information and fear of losing their only real estate, preferred to give up this benefit, and they belong to the most vulnerable group of citizens when it comes to finance, within the amendments to the SWA we proposed that this provision should be re-regulated as in the 2014 amendments to the SWA, i.e. that the claim annotation should be recorded only on an apartment or a house other than the apartment or a house that the beneficiary uses for living, which can be expropriated or rented out and thereby the funds for the settlement of basic sustenance can be ensured, as well as on other properties that the beneficiary does not use for living. Nevertheless, our proposal was not accepted.

According to our information, 530 beneficiaries opted out of the GMB because of the claim annotations, which was opposite to predictions from the NRRP, according to which the amendments to the SWA should have resulted in the increased number of beneficiaries and better coverage.

"…due to the fact that I did not want to assent to the claim annotation to the only real-estate I own, I was denied the guaranteed right for provision of my basic sustenance."

Recommendation 55

For the Ministry of Labour, Pension System, Family and Social Policy, to: prepare the amendments to the Social Welfare Act to cease the practice of registering the claim annotations to the only real-estate property the beneficiary of the guaranteed minimum benefit owns and uses for living

Despite the increase of the number of persons at risk of poverty, the drop in the number of beneficiaries of the GMB is visible in the official MLPSFSP data, due to which we proposed to the MLPSFSP in our Report for 2021 to conduct an analysis of the reasons of the drop, but it has not been done. The MLPSFSP points at employment and economic migrations as the most significant reason of the drop, which does not match the CES data, listing only 950 beneficiaries of the GMB who de-registered due to employment, with the MLPSFSP stating that less than half of the beneficiaries of the GMB belong to working-age population, while most of them are children, housewives, disabled persons, pensioners etc.

THE NUMBER OF THE GRANTED GMBs
The MLPSFSP data

Year	2018	2019	2020	2021	2022
Total rights (single person and a household)	39,628	35,103	34,004	30,701	28,882

During the year, the citizens also kept addressing us because of the length of the procedure for the approval of the allowances, including the one-time benefit. Given that the purpose of this allowance is to cover extraordinary expenses incurred due to current life circumstances, it is important that it is actually approved in accordance with the legal deadline of eight days. There is also a noticeable decrease in the usage of this allowance, despite our recommendation to cover a greater number of beneficiaries with one-time assistance, which is especially significant in the context of the rising living costs.

Regarding the second instance procedures, the MLPSFSP states that our recommendation on finishing them within the regulatory deadline has been partially implemented, since the duration of the procedures has been shortened, but they are still not conducted within the deadline prescribed by the GAPA, therefore we will continue monitoring their duration.

Recommendation 56 (reiterated)

For the Ministry of Labour, Pension System, Family and Social Policy, to: conduct an analysis of the decrease in the number of beneficiaries of the guaranteed minimum benefit

Recommendation 57

For Croatian Social Welfare Institute, to: make information on free legal aid available on their website and in their premises

Recommendation 58

For Croatian Social Welfare Institute, to: shorten the procedures for the approval and the payment of the one-time benefit

Recommendation 59

For Croatian Social Welfare Institute, to: pay the one-time assistance to a larger number of beneficiaries

The MLPSFSP information that the least number of administrative disputes are initiated because of the GMB, due to ignorance of the parties and the long duration of administrative disputes, is particularly worrying and may even point to indirect discrimination based on education and financial status.

"I believe it is unacceptable that someone has to be begged to do their job, and I won't even discuss the time needed, because it is the matter of administrative silence, which is subject to inspection, as well as lawsuit. (…) In addition, I appeal for the URGENT solving of the above request, considering that the normal and reasonable deadline has long expired!"

2.10.3. Homelessness

The European Pillar of Social Rights in its Principle 19. Housing and assistance for the homeless states, among other, that it is necessary to provide adequate shelters and services for the homeless in order to promote their social inclusion.

Furthermore, the main determinants of the Lisbon Declaration on the European Platform on Combating Homelessness, of which the RC is also a signatory, are that: no one should sleep rough because there is no accessible, safe and appropriate emergency accommodation; no one lives in emergency or transitional accommodation longer than is required for a move-on to a permanent housing solution; no one is discharged from any institution (prison, hospital, care facility, etc.) without an offer of appropriate housing; evictions should be avoided whenever possible, whereby no one should be evicted without provision of an appropriate housing solution when needed; and no one should be discriminated against due to their homelessness status.

The Lisbon Declaration recognises the complexity of the homelessness pattern and specifically points to the importance of strengthening analytical work and data collection in order to promote evidence-based policies addressing homelessness. As part of the Lisbon Declaration, the EC undertook to monitor the progress in the fight against homelessness through the European Semester process and the Social Protection Committee. Despite all the adopted EU documents, and even though the homeless were introduced as beneficiaries into the social welfare system by the 2011 SWA, in the RC there is still no systematic solution for the problems they face.

Thus, there are still no unified statistics on the number of homeless persons in the RC.

According to the data of the former SWCs, provided to us by the MLPSFSP, a total of 380 homeless people were recorded in 2022 (these are the persons who declared themselves as such when addressing the SWCs), among whom there were 312 men and 68 women. This indicates a decrease in the number of the registered homeless in the RC in comparisson with 2021, when the total number was 525, but there is no information as to the cause of such decrease.

As it is stated that the records were kept according to the number of persons who declared themselves homeless in the SWCs, the impression is that the SWCs did not keep records in accordance with the new SWA, which expanded the definition of homelessness. According to the new definition, a homeless person is a person who is accommodated or uses the service of organised housing in a shelter or an overnight accommodation, or stays in public or other places not intended for housing. Therefore, we recommend the Croatian Social Welfare Institute to harmonise their records with the SWA.

On the other hand, according to data collected by providers of services for the homeless, there are about 2,000 homeless people in Croatia, and only 420 places are in shelters, so the rest live in public and abandoned spaces. According to their data, the number of homeless people in Croatia is increasing, mostly due to increasing food prices, overhead costs and rents, especially in the big cities of Zagreb, Split, Rijeka and Osijek. The situation is most difficult in Zagreb because, according to data from the Croatian Network for the Homeless (CNH), there are 700 to 1,000 people on the street, and the Central Train Station is often mentioned as the biggest

Recommendation 60

For the Ministry of Labour, Pension System, Family and Social Policy and the Croatian Social Welfare Institute, to: keep their records on the number of the homeless in line with the definition of a homeless person given in the new Social Welfare Act

lodging place in Zagreb, given that 70 to 100 homeless people live in its buildings and abandoned wagons.

This is precisely why, in the Report for 2021, we recommended the MLPSFSP to map homelessness in the RC, the most common reasons that led to it, to determine the number of homeless persons and the challenges they face, which is the first prerequisite for devising better solutions and creating policies for combating homelessness. Although the MLPSFSP notes that they are aware of the methodological limitations of the existing records related to the number of beneficiaries and consider it as one of the priorities for improvement in the upcoming period, we believe that it is necessary to specify more precisely the deadlines in which they will begin working on advancing the records and carry out the mapping.

Recommendation 61 (reiterated)

For the Ministry of Labour, Pension System, Family and Social Policy, to: create a National strategy for combating homelessness

Recommendation 62 (reiterated)

For the Ministry of Labour, Pension System, Family and Social Policy, to: draft a Protocol on the procedure that would define obligations of all stakeholders with respect to protection of rights of the homeless

Recommendation 63

For the Ministry of Labour, Pension System, Family and Social Policy, to: ensure a long-term and timely financing of the activities providing help and support to the homeless

A national strategy for combating homelessness has not been adopted, and despite the insufficient interdepartmental cooperation that transpires from the complaints, not even a protocol has been adopted that would clearly define the obligations and forms of cooperation of all stakeholders, which we and the experts who have been dealing with this topic have been advocating for years.

The survey on discrimination we conducted in December 2022 showed the prejudice homeless people face. One fifth of the citizens believe that most homeless people do not want to work and that they are the only ones to blame for the situation they are in. The research on the attitude of the public and experts towards the homeless showed that 77% of citizens agree with the statement that “homelessness can happen to anyone”, and as much as 90% agree that “it is in the best interest of the state that no citizen becomes homeless”. At the same time, acceptance of the homeless is relatively high in a more formal context, while close relationships with homeless citizens are mostly unacceptable. To the greatest extent, the citizens would accept a homeless person as a colleague at work, a neighbour or a friend, but the acceptance of a homeless person as a partner of their child or as a spouse is significantly lower. Slightly more than a quarter of the citizens would not be willing to come into contact with a homeless person in general, while the willingness to engage in the contact with the homeless is the least pronounced when it comes to the homeless people addicted to psychoactive substances, mentally ill, migrants and members of the Roma minority.

Large cities and county seats have a legal obligation to allocate funds in their budgets for the provision of accommodation services in shelters or in overnight accommodation for the homeless, but only 13 of them exist in nine large cities, while more than half of tthe RLSGUs do not fulfil this obligation, so the problems of homelessness are still dealt with by religious communities and non-governmental organisations.

Based on the data of the service providers it follows that the biggest problem is still the lack of continuous financing of the various types of social services they provide, such as day care centres,

which is why they are financed on a project basis, which in turn leads to a lack of professional workers, and ultimately calls into question the continuous help and support for the homeless. The MLPSFSP states that it provides financial support to numerous CSO projects aimed at the so-called hidden homeless people and that a continuous systematic support for organisations that take care of the homeless is planned through the financing of one-year and multi-year programmes. At the same time, service providers point out that the MLPSFSP does not announce new tenders and public calls on time, so the continuity of funding is not ensured.

This was pointed out to us by the experts who work with the homeless as well, with whom we talked about the challenges they face in providing housing, meals, health services and education for the homeless, but also in helping to build their self-confidence, dignity, and a sense of belonging to the world around them.

In addition, the homeless continue to face difficulties in exercising their healthcare rights, as well as other rights due to not having personal documents, while the uneven practice of registering their residence at the address of the social welfare centres makes it even more difficult for them. At the same time, research carried out by NGOs indicates that a particular problem is the fact that most homeless persons do not have a dentist. We proposed that the scope of persons who acquire the status of an insured person with respect to health insurance should be extended to include the homeless, but so far, the proposal has only been "taken note of" by the Ministry of Health.

Although the RC Government states in its Opinion on the Report for 2021 that by making it possible for the homeless to apply for compulsory health insurance without regulating their place of residence they would be put in a more favourable position, it is important to point out that the homeless are in an extremely vulnerable position and that the new National Health Development Plan 2021-2027 lists the improvement of healthcare for the vulnerable groups among its priorities.

The above mentioned problem was also recognised in the research of the Institute of Social Sciences Ivo Pilar[xii], which recommends that "it should be possible to issue an identity card to the homeless 'at any cost', because without it a person does not exist, cannot get a job, has problems with the police, as well as that the ID should be linked to a person and not to a place of residence (address)".

The fact that the homeless stay in shelters for much longer than a year is still worrying, so the question arises as to whether this is temporary or permanent accommodation. At the same time, long-term stay in a shelter has a negative effect on inclusion in everyday life, returning to or entering the labour market etc. Thus, it is all the more important to ensure the cooperation of all stakeholders in the local community, and the aforementioned Protocol on the procedure would definitely be an asset to the interdepartmental cooperation in solving the issue of homelessness.

2.10.4. Discrimination on grounds of financial status

According to the UN Special Rapporteur on extreme poverty and human rights, discrimination is part of the everyday experience of people living in poverty, as is stigmatisation and social exclusion. He also points out that these negative experiences complement each other, ultimately restricting the access to education, employment, housing or social and health services for people living in poverty. That is why he introduces the term "povertyism", denoting negative attitudes and behaviours towards people living in poverty. He concludes that ultimately the realisation of socio-economic rights largely depends

on people in poverty being protected from discrimination and that the strengthening of the prohibition of discrimination on the grounds of socio-economic disadvantage is a key tool towards poverty eradication.

At the same time, discrimination on the grounds of economic status is prohibited in the RC by the Anti-Discrimination Act, which ranks Croatia among approximately half of the EU countries that guarantee their citizens protection from unfavourable treatment on that basis. The basic precondition for this type of protection is that the citizens report discrimination, but with this type, the problem of insufficient reporting is pronounced. Due to insufficient recognition of this type of discrimination, it is not reported enough to the Ombudswoman, nor are court proceedings being initiated.

There are additional obstacles related to court proceedings that influence the decision of poor persons to initiate court proceedings related to discrimination, not only related to discrimination based on economic status, but also to all other grounds of discrimination. Considering the complexity of discrimination proceedings, the availability of (secondary) free legal aid is also important, as a system designed precisely so that the financially underprivileged persons can achieve equality in the right to access justice, which is necessary for them for a whole range of rights, which we further discuss in the chapter on the judiciary.

Our 2022 research on the occurrences and the perception of discrimination that also deals with the reasons of its non-reporting, discovered that as many as 60% of citizens who said they were discriminated against did not report it to anyone. Most of them believed that nothing would change, but 21% pointed out that they did not react because the procedure was expensive, complicated and time-consuming, and another 20% because they believed that their situation would further deteriorate, which are assumptions that can have a stronger influence exactly on the decisions of the financially underprivileged persons.

I have to report a job add, because they demanded that I, working at a student job with a student wage, have my own PC that supported some of their programmes I was supposed to work with. I am writing this on an ancient laptop computer, I can barely afford a monthly bill for a mobile line which I use as my Internet connection. I called the CES to give me advice about what I should do, but no one replied.

I know that remote work is now a thing, but my laptop is not powerful enough to run such programmes. I thought that a company such as this one can afford good hardware more easily than me!

This complaint represents the challenges the financially underprivileged persons face when trying to find employment. The complaint was sent to us by a student who, in search of a job that would help him cover the costs of his studies, came across a job ad with the condition that candidates should have their own computer that can run a specific video processing program. Setting such a condition represents property-based discrimination because it deters the persons who either do not own a computer at all or do not own a computer that supports specific video processing programs from applying. Therefore, we warned the employer that this type of vacancy ad represented discrimination

based on economic status and gave them a recommendation to remove the discriminatory condition from future ads, which they proved to us by submitting new advertisements.

In the context of access to goods and services, HRT (Croatian Radiotelevision) did not implement our recommendation that pensioners, regardless of the source from which their pension is paid and the date of their registration in the register of monthly fee payers, should be exempted from half of the amount of the TV programme fee. Namely, the exemption from paying 50% of the monthly fee covers only the pensioners with a pension of less than HRK 1,500, if their pension is paid from the State Budget of the RC and if they were registered as liable for paying the fee on 12 October 2015. The conditions set in this way exclude pensioners who have become liable to pay the fee in the past eight years, as well as those who receive pensions of less than HRK 1,500, but have earned part of that pension by working in another country. Therefore, we repeat this recommendation, considering that for retirees who receive the lowest pensions the difference of 40 kuna in the fee is very large, and especially significant because radio and television are their only contact with the current events and a source of entertainment for many of them.

Recommendation 64 (reiterated)

For the Croatian Radiotelevision, to: provide for an exemption from paying half the amount of the monthly fee for pensioners below the income threshold in the next Decision on determining the amount of the monthly fee, regardless of the source from which their pension is paid and the date of registration in the register of monthly fee payers

Recommendation 65 (reiterated)

For the Ministry of Health and Croatian Health Insurance Fund, to: regulate the issue and secure funds in the State Budget in order to enable parents of stillborn children who submit a request to receive a compensation for the actual costs of transporting the remains to the place of burial

At the same time, recipients of low pensions from other countries, although socially vulnerable, were also left out of the Government's package of aid measures after the rise in prices and inflation, which we warned about when the adopting of the said measures was underway and which we further discuss in the chapter on age-based discrimination.

Although the Health Insurance Act was amended in 2022, the MH (Ministry of Health) did not implement our Recommendation to regulate the issue and secure funds in the State Budget in order to enable parents of stillborn children who submit a request, to receive compensation for the actual costs of transporting the remains to the place of burial, despite the announcements that it would be considered. Namely, back in 2020, we acted on the complaint of a mother who gave birth to a stillborn child during a regular check-up at the 33rd week of pregnancy, and the gynaecologist's office was more than 50 km away from her place of residence, where the child was buried. After she submitted a request to the CHIF for the reimbursement of the costs of transporting the remains to the place of burial, it was rejected because the stillborn child does not have a PIN and cannot be insured. This complaint pointed to a legal gap in the regulations in the area of health insurance rights, which can consequently result in discrimination against parents in a disadvantaged financial position.

2.11. Right to adequate housing

2.11.1. Housing

"Three years ago, I moved to a rented home as my son recommended, the deal was that all of us would live together at Mrs...'s. The deal was that we would pay the rent in the amount of HRK 1.300 and that we will help her with the chores she could not handle on her own, such as lawn mowing, painting the walls, going shopping etc. After a while, she increased the rent by HRK 200, because we had a misunderstanding on one occasion. We asked her to register our residence with the relevant institutions, to which she replied that she did not want to, so my sons left... Today, the lady came to my door (as we are on the 1st floor and she lives beneath us) with the intention to cut off our electricity and water supply, which in the end she did, adding that we should leave the house as soon as possible. Unfortunately, I earn a minimum wage and I'm looking for a flat in line with my budget, but unsuccessfully. I contacted the Tax Department and found out that the previous tenants also weren't registered and that they had also complained..."

This chapter is dedicated to the problems related to housing and securing an affordable and adequate home, the adoption of an amendment to the Apartment Lease Act, the problems of taking care of the victims of landslides, the social housing, as well as the difficulties in accessing safe and clean drinking water for human consumption and energy sources.

The right to decent housing implies a home as the basis of stability and security for an individual and the family, whereby people must be safe from illegal evictions, have access to safe and clean drinking water for human consumption, sanitation, electricity and heating. The state must have in place effective measures to prevent homelessness and discrimination in the area of housing, but also develop policies so that everyone has the possibility of adequate housing.

There is no general regulation housing in the RC. The issues of housing, i.e., providing housing for different categories of citizens or social housing, for example for the homeless, socially vulnerable, veterans, persons under international protection, victims of domestic violence and other vulnerable groups, are regulated by special regulations, which makes it difficult to comprehensively consider the issue and propose more effective solutions. Apartments should be affordable, and the public ones should be put into use as much as possible, because housing is a social concern. Special attention should be paid to emergency situations and taking care of the victims of violence, people who face eviction and have nowhere to go etc.

Housing-related problems mentioned in the citizens' complaints, in the public and in the media are numerous and long-standing and pertain to real-estate purchase prices that are too high for many, but also to market price of the rents, lack of apartments for public rent, their not meeting the conditions and the insufficient number of "staff apartments" for all interested. We also noticed an increase in complaints related to the lack of private apartments for rent in tourist centres, but also the unfamiliarity with the rights and obligations related to housing, whether it is the rights of the owners or the renters. The economic crisis and inflation, the war in Europe and the growing number of refugees add to the housing stress that occurs when housing costs exceed 30% of the citizens' income and when

many people give up other needs and services to cover utility bills. Poor housing conditions affect physical and mental health and lead to social and economic isolation, especially after the COVID-19 epidemic.[xiii]

Many still believe buying an apartment is the most reliable way of solving the housing issue, because real-estate ownership is also considered a form of investment. It is also encouraged by the state through subsidising loans and selling the so-called SHCP apartments under more favourable conditions. According to the ATMIP data, from the beginning of the implementation of the SHCP programme in 2001 until December 2022, a total of 7,524 apartments were built, mostly in Zagreb, Split, Šibenik, Zadar and Osijek. The maximum price is HRK 10,200.00/m², or approximately EUR 1,350/m². In 2022, 109 apartments were built, mostly in the coastal area, i.e., in Lovran, Biograd na Moru, Vis, Kraljevica and Baška. We do not have the data on the renting of the SHCP apartments, and the SHCP for the needs of the deficitary occupations did not catch on, despite the existing need. However, some towns such as Biograd na Moru or Vis bought apartments from the SHCP to house doctors, professors and public notaries.

The story of a psychologist who got a job at the school in Korenica also points to the urgent need to create national and local housing policies, especially for the workers in the deficitary occupations. However, due to the impossibility of ensuring adequate housing and problems in communication among the complainant, the municipal authorities and the employer, the employment was eventually terminated, the complainant was left without a job and the children without a school psychologist.

„…Sadly, we who don't own a thing, such as in my example, I am not eligible for a loan because I have only a small trade and can't get a loan without additional guarantors, I do not have a place of my own to start a family because I fear that I will have to look for a new apartment tomorrow. Please, do not ignore my e-mail, because I contribute to the community, I contribute to my town, to the state... I am paying two rents, the taxes..."

With the housing loan subsidy programme, the state helps repay part of a loan for the purchase or construction of a house or apartment in the duration of at least five years. Since September 2017, a total of 27,497 requests for subsidies were approved. In 2022, 5,680 out of 5,870 submitted requests were approved, the largest number since the beginning of the implementation of the measure. The average age of the subsidised loan user is 33 years, the amount of the average annuity is about HRK 2,948.00 or EUR 392.00, and the subsidy approximately amounts to HRK 1,000 or EUR 133.00, with a repayment term of 23 years. This model is considered a demographic measure and does not apply to people over 45, who are therefore market oriented. There are more and more public objections that the consequences of this programme are the increase in real estate prices, the increase in bank profits and the long-term indebtedness of buyers.

There are not enough adequately furnished city apartments for rent for all interested, especially for vulnerable groups and for social rent, while the state concludes rental contracts with the most favourable bidders, which is too expensive for many. But with all the advantages and disadvantages,

the public rent of city apartments still entails an acceptable price, a written contract and security, so this model should be encouraged and apartments built for this purpose. This is also indicated by the Right to the City (Pravo na grad) association, which conducted a survey on the housing needs on a sample of 1,700 adult citizens of Zagreb in 2021. The analysis indicates that the tenants in the private renting market, pensioners, unemployed, citizens with housing loans, as well as those who do not meet the conditions for obtaining a loan, are in a particularly vulnerable position, which again speaks in favour of the need to invest in public housing funds.

Many government apartments are run down and empty, or they have tenants without a legal basis, whether their contract has expired or they never even had one. According to the MPPCSA data, on 11 January 2022, they were managing 6,788 apartments, 1,229 of which were occupied by illegal tenants, and 1,314 of which were empty.

Many illegal tenants are people on the verge of social and economic deprivation, as was the case in which we dealt with a single-parent family from Zagreb. The complainant, a disabled person and the mother of a child with health problems, lived illegally in a state-owned apartment and was afraid of being evicted, but her situation was successfully resolved in accordance with the current regulations and at our suggestion by providing her with a city-owned apartment.

We are also acting in the case of the complainant who lives in an inadequate accommodation without electricity in Trpinja. She originally approached us because of energy poverty as she was not connected to the network. In the process we determined that she was a long-time beneficiary of the social welfare system who illegally lived in dilapidated accommodation and was in danger of homelessness in case of eviction. The question is how many more such situations there are throughout the RC, so the problem of illegal tenants in the public apartments requires a systematic and urgent solution that will take into account their socio-economic situation on one hand, and an obligation to good management in order to avoid misuse and illegal moving into empty apartments on the other hand.

Recommendation 66

For the Ministry of Physical Planning, Construction and State Assets and the local self-government, to: consider the legalisation of the status of long-term, socially deprived illegal tenants who do not have the possibility of solving their housing issue in another way

Recommendation 67

For the Ministry of Physical Planning, Construction and State Assets, to: take measures in order to continue the procedures according to citizens' requests in line with the Decision on the sale of apartments owned by the RC, to inform them about the state of the case and act within reasonable deadlines

Citizens often turn to us because of the lengthy procedures at MPPCSA, as was the case of a complainant from Šibenik who has been living in a state-owned apartment for over 35 years. She states that she is an unemployed single mother, that the building is in a state of disrepair and needs temporary repairs, which the other co-owners do not want to undertake if the state will not pay its share, for which there is no guarantee. She submitted a request for purchase back in 2014 to the Town of Šibenik, and in 2018 the apartment was taken over by the state. In December 2022, the MPPCSA issued an opinion on the matter, stating that the complainant meets the conditions for the purchase according to the Decision on the sale of apartments owned by the RC, but that the parameters for calculating the price of the apartment based on the relevant Decision were not yet known. According to MPPCSA data, more than 1,500 tenants have submitted such requests and are awaiting their

resolution.

The following issue is the situation, now lasting for several years, in which the owners of private apartments in tourist centres increasingly decide to rent for tourists and thus withdraw residential apartments from the market, which especially affects students, pensioners and those employed for a fixed period of time or those receiving the "minimum salary". Thus, the impossibility of providing housing becomes a reason for emigration.

Because of all of the above, we have been pointing out for years to the need to draft a housing policy and correlate it to the economic, demographic and social policies. The strategy should address the needs of different groups, recognise the importance of building publicly owned property for rent and encourage this way of resolving the housing issue for a wide range of citizens, not only for the vulnerable groups. Although it is a recommendation from our 2017 report, the strategy has not yet been adopted. However, according to MPPCSA's information from January 2022, an analysis of the housing stock in the RC was conducted as part of the activities in the creation of the umbrella document of the Housing strategy of the RC. Regardless of that, having in mind a wide range of issues and measures, for their solving which should be addressed in the Strategy, we recommend that all national authorities that deal with housing, the CSOs, expert chambers and associations participate in drafting of the Housing strategy that would also include all socially vulnerable groups.

Recommendation 68

For the Government of the Republic of Croatia, to: create such tax policy to motivate the owners of private apartments for their long-term lease

Recommendation 69 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, to: draft a Housing strategy that would encompass all socially vulnerable groups and to include all national authorities that deal with housing, the local self-government, the civil society organisations, expert chambers and associations in the drafting of the strategy

One of the long-standing problems that led to numerous proceedings before all instances of national courts and the ECtHR concerns the rights of owners and protected tenants in private apartments. The owners point out that the state does not allow them the freedom to enjoy property as a fundamental human right and refer to the 2014 ECtHR ruling in the case of *Statileo v. Croatia*. The ruling reveals the structural problems of the current legislation: the inappropriate price of the protected rent, the restrictive conditions for the cancellation of the protected rent and the absence of a time limit for the protected rent system. On the other hand, protected tenants complain of an unequal position in relation to the former holders of tenancy rights in socially owned apartments who bought the apartments under favourable terms, and these are often elderly people who consider these apartments their homes.

The measures for the execution of the Statileo ruling are under the supervision of the Committee of Ministers of the CoE. During 2018, by adopting the Amendments to the Apartment Lease Act, an attempt was made to solve the problems by gradually increasing the protected rent and determining the time limit for the termination of the protected rent, along with measures to facilitate the resolution of the housing issue for the protected tenants. However, the regulation was repealed by the Decision of the Constitutional Court of the RC U-I-3242/2018 et al. of 14 September 2020.

According to the available data, the working group for the drafting of the amendment to the Apartment Lease Act has met several times, but it is unclear whether the representatives of all associations dealing with these issues, i.e., both injured parties, were represented in it. The Ombudswoman does not have the authority to act against natural persons, so she monitors this problem at the public policies level and has therefore joined the public consultation on the Preliminary assessment form for the Act on the Amendments to the Apartment Lease Act. Evidently, both parties have been waiting for years on the adoption of a regulation that would resolve their situation. Taking this into account, we pointed out that before proposing a fair and enforceable solution and submitting the draft Act to the procedure, in addition to analysing various legal sources, it was necessary to collect as accurate information as possible about the number of apartments, i.e., protected tenants who live in them, as well as whether they belong to vulnerable groups. It would be useful to obtain statistical data on their age and the property status, as well as maintenance obligations etc. in order to be able to make projections of the proposed solutions with as much reliability as possible, taking into account the current economic situation, movements on the real estate and the labour markets, but also taking into account extraordinary events such as earthquakes and similar events that directly or indirectly affect the housing domain. This is not an "ordinary", regular private law relationship between a lessor and a lessee, because neither party entered it voluntarily but on the basis of legal obligations. They also did not have the opportunity to influence the elements of the contract, so it is up to the state to find solutions that will enable the achievement and the maintenance of a fair balance between the interests of apartment owners and of the protected tenants, complying at the same

Recommendation 70 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, to: urgently prepare the amendments to the Apartment Lease Act taking into account the case-law of the European Court of Human Rights and of the Constitutional Court of the Republic of Croatia

Recommendation 71 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, to: urgently prepare the legal framework for taking care of the residents and removing the remains of the demolished family houses and other residential buildings destroyed or damaged due to the landslides in the RC

time with the requirement of proportionality.

Our Report for 2021 also pointed out the problems related to housing after the 2014 landslide in Gornji Kneginec, when 85 families were left without homes. We recommended urgent drafting and adoption of a Programme for resolving the housing issue of building residents and removal of the remains of demolished family houses and other residential buildings that were destroyed or damaged due to landslides in the RC territory. The MPPCSA responded that the process of adopting the legal framework related to landslides was slowed down due to the pandemic and the earthquake, but that the activities on adopting the new Programme continued after the establishment of new organisational units. They stated that after its adoption, they will verify the circumstances from the former inspections and the newly reported cases, and then prepare the appropriate Decision on the right to housing, which will ensure permanent accommodation or renovation of family houses or buildings. Meanwhile, a complainant from Bedekovčina who was struck by landslides in 2016 contacted us.

In the Report for 2021 we pointed out the problem with the maintenance of communal order that affected the possibility of peaceful enjoyment of property due to the uncontrolled movement of domestic animals that lasted for several years and the damage they did while moving, which the residents of Otišić complained to us about. In June 2022, the Government adopted the Support programme for taking care of abandoned, lost or temporarily confiscated domestic animals for 2022, so we recommended the Town of Vrlika to apply for the Programme in order to exercise the right to co-financing of the protection of the abandoned, lost, neglected or temporarily confiscated domestic animals and to start solving the problem. However, according to information from the MJ, not a single application was received until 12 January 2023, so the implementation of the Programme will continue in 2023. The complainant also states that the situation on the ground has not changed, so we continue the monitoring.

Social housing

Social housing in the RC is still not systematically or normatively regulated, which is partly a consequence of the fact that the Housing strategy was never adopted, and the housing of socially disadvantaged vulnerable groups is dealt with by various regulations and in different departments. At the same time, social housing is an important dimension of the social welfare policy, but also of the affordable housing. In the context of an increasing economic and energy crisis, price increases and inflation, the need for this type of accommodation could additionally increase soon.

During 2022, we specifically dealt with the issue of social housing in the context of Article 293, paragraph 3 of the SWA. The procedures we carried out were related to the evictions of families with several children, members of the Roma national minority in Zagreb and Novi Vinodolski, who were threatened with the possibility of separating children from the adults, which we further discuss in the part dedicated to discrimination based on the grounds of race or ethnicity.

The SWA Article 291, paragraph 3 states that LRGUs "shall ensure accommodation" for families with minors, "in order to prevent separation of the children from adult family members". Furthermore, the SWA defines ensuring the accommodation as "accommodation in a social apartment or in another way", which leaves room for various solutions that can last for different periods of time. This obligation is intended for crisis situations "when a family with minors is left without a home and is unable to provide accommodation on their own".

The vaguely divided responsibility of counties and towns in terms of providing accommodation is currently not adequately regulated, as it transpired from the complaints. Thus, it is necessary to clearly prescribe what are the responsibilities, who should take care of them and in which order. The provision

should also include the obligation of the state, due to unequal regional development and the fact that the capacities of towns and counties are extremely different and that they do not always have adequate accommodation, and they might also lack sufficient political will to solve the problem.

Although the above provision prescribes the obligation of towns to provide accommodation in a social apartment or in another way in situations in which evicted families may be separated due to lack of accommodation, following our inquiry the towns mostly replied that they had no legal or financial obligation to apply Article 291, paragraph 3 of the SWA, as well as that they had no need to apply it in practice. Some towns simultaneously stated that they took care of individuals or families with children in crisis situations by providing them with financial assistance to cover the costs of renting a private apartment, until the individual or family could secure their funds so that the family would not be separated. Some towns stated that they did not have any housing units available or that they did not have sufficient financial resources for this purpose.

Most of the counties responded that they had neither available housing units, nor secured funds for that purpose, and some of them responded that they received no requests for accommodation in crisis situations.

All this shows that there is a lack of understanding of this provision on the part of those who are supposed to implement it. It also shows that this obligation needs to be prescribed more precisely in order to make it clear which are the obligations of towns and which of the counties, who is primarily responsible, what can be encompassed by the term "in another way" and for which period this support is provided. This obligation should also be imposed on the state, which has the permanent responsibility of protecting human rights and which owns a large real estate fund.

Recommendation 72

For the Ministry of Labour, Pension System, Family and Social Policy, to: clearly prescribe the obligations stemming from Article 291, Paragraph 3 of the Social Welfare Act that would include the obligations of local and regional self-government units and the state

Considering that the responsibility is divided between towns and counties by a regulation, for the purposes of writing this Report, we asked [illegible] was and what should be considered as fulfilment of the obligation from Article 291, paragraph 3 of the SWA, but we did not receive any explanation.

"Dear Madam, I need help and I need someone who can help me SPECIFICALLY and QUICKLY. Please find below the transcript of the conversation with the Town's Housing Office, from which I have been trying to get specific information for 2 years. At least, I wanted them to give me a time limit or some other solution to my situation, but I hit the wall and cannot see a way out... Given that I am alone with two children and that I was often absent from work due to their illnesses, isolations, chicken pox, colds, physical therapies, examinations and everything that goes with small children, because I can't rely on anyone and I can't leave children aged 9 home alone
– I was made redundant..."

We also receive complaints related to the length of the procedures related to housing provision. Thus, we were contacted by a single mother of minors urging to be allocated a city apartment outside the priority list, since she applied to the City of Zagreb two years ago, but did not receive any response. The complainant lived in a rented apartment for which her contract was expiring, and since she was unemployed and a beneficiary of the GMB and the energy vouchers, she did not know where to go with her children when she soon had to move out of the apartment because she had no other choice. Since it was a long-term process, we contacted the City of Zagreb and requested information about the actions taken, and the City of Zagreb informed us that it had allocated an apartment to the family and that the handover took place in November 2022.

2.11.2. Energy poverty

"…Waiting to be connected to the electricity grid, we spent in Š. the beginning of the school year, Christmas and now the Lent is coming, all without power. We have been waiting for months, and there is still no power.

Winter spent with the illumination by a battery lamp and charging the mobile phone in the car is nearing its end, while my family and me still do not have answers to the following:

"Do we have the right to be connected to the electricity grid?"

"When can we expect to be connected to the electricity grid?"

During 2022, the complaints related to energy poverty mostly covered the availability of infrastructure, the disconnection of electricity by the lessor, and the write-off of claims to customers in earthquake-stricken areas, which we discuss in the section on the impact of earthquakes on the realisation of human rights.

According to the European Council data, the rise in energy prices began in 2021 due to the COVID-19 pandemic and the increased international demand, and the war in Ukraine and unfavourable climatic conditions worsened the situation even further. Almost all products and services have become more expensive, so the issue of the price and the availability of sufficient energy has become the focus of the entire society, not only the poorest.

Like many EU member states, the RC also does not have a single definition of energy poverty, the adoption of which was our recommendation in the Report for 2021. According to various EU documents, such as Directive 2019/944 on common rules for the internal market for electricity and amending Directive 2012/27/EU and EC Recommendation 2020/1563 on energy poverty, a household is at risk of energy poverty if energy costs exceed 10% of its income. Energy poverty includes energy-inefficient buildings and disconnections from the supply network, affecting physical and mental health, possibly leading to social marginalisation and even loss of home. The experiences of earthquake victims who live in construction containers show how difficult it is to live in a space that is difficult to heat up and retain heat in the winter, and very hot and difficult to cool down in the summer.

Suppression of energy poverty is an intersectoral issue, dealt with within the framework of policies and regulations on energy, construction and social welfare, which makes it complicated even for those who work in this area, and especially for citizens. Dispersion of measures indirectly affects the exercise of rights. We pointed to this in the Report for 2021 and recommended the drafting of a cross-sectoral analysis of existing measures, the establishment of a system for monitoring energy poverty, as well as the creation of a guide for citizens with basic information in this area (such as the possibilities of energy renovation of family houses / apartment buildings, exercise of rights on the allowance for vulnerable energy consumers, the so-called AVEC, compensation for housing costs etc. There is no single definition of energy poverty yet, and we don't even have official information about the preparation of the proposed cross-sectoral analysis and a single guide for citizens with all the basic information related to energy poverty extracted from various regulations.

In February 2022, the Government presented an HRK 4.8 billion package of measures to mitigate the rise in energy prices for households, companies and farmers, which, among other things, lowered the value-added tax rates on natural gas and thermal energy, which we proposed in 2018 in the process of passing the Act on the Amendments to the Value Added Tax Act.

During 2022, the amount of Allowance for Vulnerable Energy Consumers (AVEC) was increased, and with the latest amendment to the Regulation on the monthly allowance for vulnerable energy consumers, the method of participation in the payment of energy costs by the beneficiary of the compensation and the actions of the Croatian Social Welfare Institute, the amount of this compensation has been increased to a maximum of HRK 500.00, which is valid until 31 March 2023. The novelty is that in addition to electricity costs, gas and/or thermal energy costs are also co-financed, which was our recommendation from the Report for 2021 and the right to which is determined by a decision aligned with the Social Welfare Act. However, in the process of passing the Social Welfare Act, the recommendation on conducting these procedures *ex officio* was not accepted, even though the prospective beneficiaries are often older persons without access to the Internet who find it difficult to initiate the above procedures on their own. In view of inflation and disturbances in the market, we recommend extending the period when the AVEC is being paid in an increased amount. We recommend that the Government of the RC once again consider initiating procedures for the recognition of this right *ex officio*.

Recommendation 73

For the Government of the Republic of Croatia, to: extend the period of the higher AVEC payment

Recommendation 74

For the Government of the Republic of Croatia, to: consider initiating a procedure for *ex officio* recognition of rights to the AVEC

Furthermore, the Regulation on the Amendments to the Regulation on the Criteria for Acquiring the Status of the Vulnerable Energy Consumers from the Networked Systems refined the criteria for certain categories of allowance users, which was also our recommendation from the Report for 2021. It now also covers the categories of beneficiaries of the national benefits for older persons, financial benefits for unemployed Croatian Homeland War veterans, as well as financial benefits for civilian victims of the Homeland War and members of their households. We also pointed out that the right to AVEC should also be exercised by categories such as pensioners with lower incomes, so we can consider the Decision on the payment of a one-time cash benefit to pension beneficiaries in order to mitigate the consequences of the rise in energy prices, which we further discuss in the section on pension insurance, in the context of this recommendation..

Association DOOR – Society for Sustainable Development Design indicates that they have conducted several surveys related to energy poverty. The survey conducted in the second half of 2021 in the Zadar County on a sample of 200 households showed that households headed by single mothers, by mothers of families with multiple family members and single-member households were particularly vulnerable. These are mostly respondents with completed elementary school and health issues, who use wood stoves for heating, and heat only one room in order to save money. There are also useful data from the survey conducted in the period from September to November 2022 on a sample of 388 citizens in the City of Zagreb. Almost a third of the respondents in 2022 had reported last winter's heating costs of more than HRK 750, and another third from HRK 451 to HRK 750.

A total of 15.5% of them reported a delay in paying their bills two or more times a year, and when asked how the crisis will affect their heating habits, the most common answers were that they will either lower the room heating temperatures or only certain rooms will be heated. A survey of the energy poverty of tenant households is also in preparation.

The LGUs also continued helping citizens in mitigating the consequences of energy poverty, mostly by financing housing costs and co-financing the energy renovation of family houses, e.g., in Vukovar, Pazin and Pula, then by paying a one-time financial assistance to citizens in order to mitigate the consequences of high energy costs, but also through individual actions such as purchasing stoves.

In September 2022, the Government of the RC presented the autumn package of the measures to mitigate the consequences of the rise in the price of energy sources, the first part of which refers to the mitigation of the rise in energy prices (electricity, gas and thermal energy).

As a result of the above and in order to combat energy poverty, it is important that the Government of the RC continuously monitors the situation on the energy market and undertakes measures to support citizens.

In order to alleviate energy poverty, in addition to financial benefits, it is necessary to increase the energy efficiency of buildings. The EPEEF (Environmental Protection and Energy Efficiency Fund) plays an important role in the financing of energy renovation projects, with citizens also being beneficiaries of those projects. The complaints we received regarding the EPEEF during the past year pertained to the problem in communication with their employees, while we still continue to act on the complaints related to the access to court and effective legal remedy in the procedures for the allocation of funds for the energy renovation. In the Report for 2020, we already pointed out the problem of the effective protection of citizens' rights in the activities of co-financing and implementation of the energy renovation of houses. According to the announcements from the EPEEF, there should be improvements in the implementation of the the procedure for calls for tenders and the methods and conditions for processing citizens' complaints.
We continue to receive complaints related to the availability of the electricity distribution network, especially in the rural areas or after the Homeland War, which we have been reporting on for years. Thus, in 2022 we acted on a complaint about a long wait for a family house to be connected to the electricity network after it was renovated in accordance with the Reconstruction Act in a village near Pakrac. Due to data discrepancies and poor communication between the CSORHC and HEP DSO, the complainant ended up paying for the connection himself, although it was not his responsibility. After our recommendation, his costs were reimbursed. We also pointed out that with the purpose of ensuring the electricity supply in areas such as parts of Lika or Banovina, where the construction of the classic infrastructure is not possible or profitable, other models should be opted for, such as the use of renewable energy sources. However, according to the EPEEF data, a total of 11 households were electrified outside the reach of the electricity grid in 2021, but we have no information about the reasons why the project was not continued.

Regarding service suspensions in the context of energy poverty, data from HEP Elektra indicate a decrease in the number of temporary suspensions of electricity supply due to debt. In 2022, there were 22,000 of them (1.06% of end consumers), in 2021 there were 26,200 of them and in 2020 a total of 27,500. We do not have information whether there are vulnerable consumers in this category, but Elektra states that they do not initiate supply suspension procedures if they have the competent authority's decisions on the confirmed vulnerable consumer status.

2.11.3. Right to water and water services

"...We all drink untested water from wells a few kilometres from our house; the wells are unprotected, so anything can be found in them - from dust to dead animals. We are not allowed to protect them because they are not our property, but property of farmers…"

Complaints and procedures that we conducted in relation to the right to water, i.e., the access to public water supply and drainage, are mostly related to problems regarding the availability of communal water structures and the settlement of water bills. Without available or affordable water services there is no decent housing, no possibility for economic progress and revitalisation of certain areas, such as islands or areas affected by catastrophic earthquakes in 2020. We are faced with climate challenges, droughts and floods, energy crisis and inflation, which puts access to a sufficient amount of healthy water for human consumption in additional focus, not only for individuals who have a specific problem, but also for the general public. Therefore, we point out once again that it would be useful to consider introducing the right to water into the Constitution of the RC. In a special chapter on the impact of the earthquakes on the realisation of human rights we also write about the availability of water in the affected areas, while we discuss the importance of preserving the aquatic environment and drinking water from various pollutants in the section Right to a healthy life and a healthy environment.

According to MESD data received in 2022, 94% of residents have the possibility of connecting to public water supply systems, while the rest are supplied with water from wells or local waterworks – there are some 200 of them, to which 63,037 residents are connected. We have already pointed out that water from local water supply systems poses a health risk because it is delivered without treatment and disinfection. In the context of the requirements of EU directives, for example the Water Framework Directive 2000/60/EC, it is not acceptable that some form of water supply should be outside the control and the water supply management system, so we monitored the reform of the water sector, which includes consolidation of public water supply service providers (PWSP) for the most effective implementation of investments and balanced development in water services, i.e. taking over the management of local waterworks by the PWSP. The reform is also a condition for withdrawing funds from the National Recovery and Resilience Plan 2021-2026. It was opposed by some 20 LGUs, triggering the procedure for the constitutional review of the Water Services Act and the Regulation on Service Areas, the reform acts that provide for the consolidation of the PWSP, in December 2021.

However, the Constitutional Court rejected the proposals for the constitutional review of the Water Services Act by Ruling U-I-7217/2021 et al. dated 19 December 2022, pointing out that the politics favouring narrow local interests, which was implemented in some parts of the RC in the past period, led to huge differences between urban and rural areas in water service standards. There are areas, for example the hinterland of Dalmatia, where we cannot speak of any standard of water services, because public water services are not provided at all and people manage their own water supply and drainage, which is justified by the unprofitability of building public water supply and drainage systems in areas with small number of users. Furthermore, mobile public water supply by tanker truck also represents a legal form of public water supply. Considering the high costs of mobile public water supply, which as a rule fall entirely on the end user, such a method of water supply is rare and is mostly used only in the summer period when all individual water sources dry up. The integration of PWSP aims to achieve a balanced development of urban and rural areas in terms of availability of sufficient amounts of healthy water and to ensure access to water for everyone, as required by EU Directive 2020/2184 on the quality

of water intended for human consumption, which is currently being transposed into Croatian legislation, the Constitutional Court states. Although outside the reporting period, we inform that in February 2023 the Constitutional Court repealed the Regulation on Service Areas by Decision U-II-627/2022 et al. because the procedure for its adoption was not aligned with the Constitution and the Code of Practice on Consultation with the interested public in the process of adopting acts, other regulations and policies, i.e. it was not clear why the service areas were formed in the manner prescribed by the Regulation, emphasizing that the primary legitimate goal that the Act seeks to achieve (permanent, efficient, economical and purposeful performance of water service activities) does not derive from its content.

In addition to availability, the citizens are concerned about the increase in the price of water services. According to the Report of the Water Services Council for 2020, real financial stability problems could be expected as a result of the impact of rising energy prices on the global and national markets, and these expenses account for an average of between 20% and 25% of PWSP's material costs. Due to the increase in the price of energy and materials, some towns such as Karlovac, Rijeka and Pula increased their water prices. Considering the current economic situation and the importance of water for human life and health, it is necessary to monitor developments and react in a timely manner with measures to help citizens. It should be pointed out that in December 2022, in order to prevent the rise of water prices, the Government postponed the implementation of the Regulation on fees for water use for a year. Namely, as early as 2010, the PWSP were obliged to pay compensations for the amount of water taken. Upon their request, the application of the Regulation in question was postponed on several occasions so that the basis of calculation would continue to be the delivered quantity of water, which includes the difference between the taken quantities and water losses. According to Hrvatske vode, average water losses amount to around 50% and are a consequence of the decrepit infrastructure and faulty home installations, unauthorised connections, but also lack of specialised experts for solving these problems, so the PWSP that have large losses in their systems and large water consumption would pay higher compensation, which would ultimately lead to higher prices for citizens. Therefore, it is necessary to primarily carry out loss reduction investments using funds from Hrvatske vode or the National Recovery and Resilience Plan. To decrease the costs of living, the LGUs have the obligation to cover the costs of housing, including water services in accordance with a special regulation, which most do, according to the available information. There is a special category – prices for socially vulnerable citizens, as monitored by the Water Services Council.

According to the PWSP data for Q1-Q3 2022, the percentage of water losses remains at the same level. However, Hrvatske vode noticed a reduction in losses in the area of Sisak-Moslavina County due to post-earthquake repairs, but also somewhat increased losses in the City of Zagreb due to more frequent ruptures of main pipelines in the past year. As a positive point, they highlight the stopping of the long-term trend of increasing losses and the almost complete implementation of the Loss abatement programme in public water supply systems in the RC in 2022.

In December 2022, we participated in the public consultations on the draft proposal for a regulation on the methodology for calculating the price of water services, pointing out the need to harmonise it with the Act on Islands in relation to transportation costs, as well as the need to prescribe the social price of water for both supply and drainage carried out by mobile means, and not only by means of communal water structures. We also proposed prescribing instructions on legal recourse/remedy as an integral part of the bill for water services, as well as clearly defining whether and at what rate water delivered to the consumer in line with Article 41 of the Act on Water Services is charged. More precisely, it is related to the delivery of a minimum amount of water of 50 litres per household member per day for the duration of the service restriction that occurred due to non-payment of bills.

In July 2022, in an extremely dry period and at the time of the tourist season and increased water consumption, Istria County ordered measures to limit the consumption of drinking water and restrictions that included a ban on the use of drinking water for washing vehicles, public areas, watering private and public gardens, sports fields and showers on the beaches, and the PWSP mitigated the consequences of the drought by including reserve wells in the system. After two weeks, consumption decreased by 15%, and after a month, the reduction measures were eased. Although it affected a large number of people and at the height of the tourist season, we did not receive any complaints about the unavailability of water in that area.

A complainant from Imotski contacted us, complaining about the frequent interruptions in the water supply about which the residents were not informed. They were also not informed of the location of the water tanks. We initiated the action of SIRC, which, after the procedure, filed an indictment against the PWSPs for violating obligations from Article 41 of the Water Services Act. It is related to the obligation to deliver water for human consumption during planned or unexpected supply interruptions to residents who are threatened with danger to life and health or business users who are threatened with significant material damage, and in case of longer interruptions to all residents, of at least 50 litres per household member per day, for a period of at least eight hours and at a place determined by the PWSP in the general conditions of delivery of water services, taking into account the vulnerability of the user. The procedure related to this case also dealt with the issue of defining legal terms, such as: danger to life and health, longer interruption of delivery, occurrence of significant material damage and the differing practices arising from the differences in interpretation of these concepts, so we requested an opinion from the MESD, but we did not receive it by the time of writing this Report. Therefore, we recommend to the MESD the adoption of an instruction for the PWSP on the procedure in cases of suspension of water services, related to the obligation to ensure a minimum amount of water of 50 litres per household member per day in line with Article 41 of the Water Services Act.

Recommendation 75
For the Ministry of Economy and Sustainable Development, to: provide instructions to public water service providers on how to proceed in cases of suspension of water service delivery, on the obligation to ensure a minimum amount of water of 50 litres per household member per day

We continue monitoring the availability of water utility infrastructure, especially in the rural areas. We noticed progress in individual cases. Thus, some residents of Podolje in Draž municipality are not connected to the existing infrastructure, and they obtain drinking and hygiene water in different ways, so the Municipality has provided them with free and unlimited access to water from a public tap. We contacted the PWSP, Hrvatske vode and the MESD on several occasions and advocated the implementation of the water system construction project in Podolje. According to the latest information, the works were supposed to start in December 2022.

After many years of our actions, there was also a shift in the Velebit coastal area, where Hrvatske vode signed an agreement with the PWSP on co-financing the project documentation for the water supply of the Pejice – Josinovac settlement and the water supply of Živi Bunari and Vlaka settlements, after which it is necessary to obtain building permits and conduct the public procurement procedure for the construction of the public water supply network in the above settlements.

An example of good practice in regulating the status of local waterworks without a manager is a case from the vicinity of Glina, in which we acted on a complaint about unregulated pumping of water from land owned by the complainant. Hrvatske vode informed us that they will invite the complainant to enter into a purchase agreement in order to regulate the status and use of the spring, which will become a public water asset owned by the RC after the sale. It will be managed and maintained by Vodovod Glina Ltd.

Last year, we also pointed out the problems with connection to the public drainage system. According to the MESD data, 43% of the total population is not connected to the public drainage systems, but they have (or they should have) individual systems or collection pits. A functional public drainage system is necessary for preserving human health and protecting the environment, so its development, especially in the tourist areas, should be a priority.

2.11.4. Provision of housing

Introduction and legislative initiatives in the area of housing

The AHPAA (Act on Housing Provision in the Assisted Areas) does not apply to the entire territory of the RC, but only to the assisted areas and the areas of special state concern. Exceptionally, only certain beneficiaries from the AHPAA can receive housing in the entire territory of the RC, such as victims of domestic violence, employees whose jobs are in special demand, persons in organised accommodation facilities, beneficiaries of the Regional Housing Programme and, according to the still valid Regulation on determining the status of former holders of protected tenancy rights and their family members and the conditions and manners of housing provision to them, persons with the status of former holders of tenancy rights and their family members.

Although passing of the Act on Amendments to the AHPAA was planned for 2021 and 2022, it did not happen. The above Act is expected to be passed in 2023.

In the e-consultations on the proposal of the Ordinance on the amendments to the Ordinance on Leasing Housing Units (Ordinance/22), our proposal was accepted, and now claims are written off, i.e. the user is released from the obligation to pay rent when the Commission for Assessment of the Status of Habitability of Housing Units determines that it is necessary to renovate the residential unit, as long as the building is not repaired, while earlier in the proposal it was stated only that the user can be exempted from paying the rent.

Recommendation 76

For the Ministry of Physical Planning, Construction and State Assets, to: prescribe the authorisation of the Committee for the Allocation of Housing Units to determine the actual surface area of the living space for which rent is paid in the Ordinance on Leasing Housing Units

The proposal to at least prescribe what is included in the scope of emergency interventions and repairs necessary for the use of rental housing units was also accepted. It is positive that now the lessor is obliged, provided that the user has not caused any damage, to provide emergency interventions and repairs necessary for use of residential units (family houses and apartments) for rent, while previously they

were only obliged to provide funds for emergency interventions and only for family houses.

Although we continuously receive complaints from housing provision beneficiaries in which they point to improperly determined living areas of housing units for which they pay rent, the proposal that the Committee for the Allocation of Housing Units continue to be authorised for determining the actual area of housing units for which the rent is paid was not accepted.

Interdepartmental cooperation

"If you look at the dates of submitting the housing provision requests, you can see that more than 20 years have passed since the first date until today, when I write this e-mail, despite the fact that all the necessary documents were submitted in time and all the required conditions have been met by our family. Two or three years ago we received the information that we are finally on the top of the priority list. We were even offered some apartments, some of which we accepted, and some were not suitable for my mother who has health issues and is partially disabled. Nevertheless, the procedure did not continue and we still have not been taken care of."

During 2022, two agreements were concluded on mutual rights and obligations in the implementation of the interdepartmental cooperation programmes: between the CSORHC and the Municipality of Konavle on the construction of housing units and between the CSORHC and the Municipality of Brinje on the fitting of the housing units.

The interdepartmental agreement with the Municipality of Konavle has finally resolved the housing provision issue for six veteran families from that area after almost 20 years. Namely, for several years we have been acting on the complaint of one of the Croatian veterans, to whom the then Ministry of Regional Development, Forestry and Water Management issued consent for the donation of state-owned construction land and building materials for the construction of a family house, which he requested back in 2003.

The consents given to the complainant, as well as to the other mentioned veterans, were not enforceable at the time of their adoption due to unresolved proprietary issues. According to the statement of the CSORHC, in 2022 the Municipality of Konavle finally donated construction land for the construction of six family houses to the state.

The interdepartmental agreement concluded in 2020 between the CSORHC and the Town of Drniš for the construction of a building with 25 apartments is being implemented. The town transferred the ownership of the construction land and corresponding communal infrastructure to the RC and waived the communal contribution, while the CSORHC finances the construction works. The apartments are built for users from the priority list, and the needs for housing of people with deficit occupations in Drniš will also be determined. The works are expected to be completed in the second half of 2023.

The implementation of interdepartmental agreements concluded with the towns of Novska, Benkovac and Knin and the Municipality of Topusko continued.

The agreement with the Municipality of Topusko refers to construction of two buildings with a total of 26 apartments, originally intended for beneficiaries of the housing provision programme, but it was decided that earthquake victims will be accommodated in them. The construction works began in 2022, with 95% of financing provided form the non-refundable EU funds.

Recommendation 77 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, to: initiate the conclusion of agreements with local government units on mutual rights and obligations in the implementation of interdepartmental cooperation programmes, especially those where former holders of tenancy rights have been waiting for the allocation of a housing unit

Such cooperation and agreements contribute to a faster resolution of the housing issue of users in areas where the CSORHC does not have housing units, as well as to the attraction of people with deficit occupations in certain LGUs, and it would be positive if there were as many of them as possible.

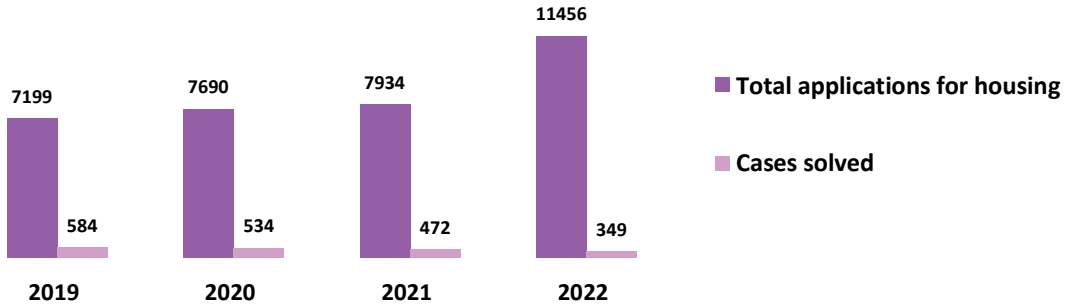
Therefore, we repeat the recommendation to the MPPCSA to initiate the conclusion of agreements with LGUs on mutual rights and obligations in the implementation of interdepartmental cooperation programmes, especially those in which former holders of tenancy rights have been waiting for the allocation of a housing unit for a long time.

The course of the realisation of housing provision requests and problems in exercising the rights in the area of housing provision

In the area of housing provision, slow solving of housing requests has been one of the biggest problems for years, and during 2022 it has been slowed down even further due to significantly increased influx of applications compared to the number of available housing units and the financial resources allocated in the budget of the RC for these needs. NGO Civil Rights Project (CRP) from Sisak also states that during 2022, citizens turned to them mainly because of the lengthy process of exercising the right to housing.

According to the CSORHC data, in the beginning of 2022 there were a total of 11,456 submitted applications for all housing provision models from the AHPAA, both new requests and those transferred from an earlier period, which is 44.39% more than in 2021 when there were 7,934 of them. Of these, 5,145 or 44.91% of applications were transferred from the priority list for 2021, while 6,311 or 55.09% were the newly submitted applications. During 2022, 349 cases were resolved, which is 123 less than in 2021.

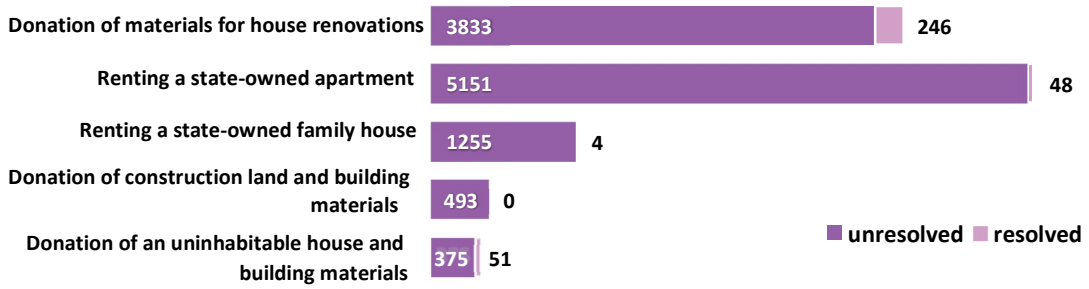
RATIO OF THE TOTAL NUMBER OF APPLICATIONS FOR HOUSING (transferred from the previous period and newly submitted) AND RESOLVED



Despite the CSORHC data stating that the plan of adopting decisions for all models of housing provision was fulfilled with 65.23%, because instead of the planned 535, 349 were adopted, one gets the right picture only after comparing the number of transferred cases from previous years and newly submitted applications to the number of resolved cases. Most applications for housing, 5,199 of them, were based on renting a state-owned apartment (model C), and only 48 or 0.92% of them were resolved. This is followed by the donation of building materials for the renovation, addition/upgrade and completion of the construction of a family house owned by the user (model E) with 4,079 applications, of which 246 or 6.03% were resolved. Next is the rent of a state-owned family home (model A), for which 1,259 applicants were interested, and only 4 decisions or 0.32% were adopted. According to model D, i.e., the donation of state-owned construction land and building materials for the construction of a family house, a total of 493 applications were submitted, and not a single decision was made. Finally, according to model B, i.e., providing housing by donating an uninhabitable state-owned family house and building materials for its renovation or reconstruction, there were also 426 applications, and 51 or 11.97% of them were resolved.

Thus, for all models of housing provision, only 349 cases (3.05%) were resolved out of 11,456 applications, which is significantly less than in 2021, when 472 cases (5.95%) were resolved out of 7,934 applications.

A COMPARISON OF THE UNRESOLVED AND RESOLVED APPLICATIONS FOR HOUSING



Consequently, we repeat the earlier recommendation to the Government of the RC on ensuring the additional funds and housing units, and to the first-instance authorities to speed up the processing of housing applications.

The problems of former holders of tenancy rights who were recognised by final and enforceable decisions as having the right to housing care by renting a state-owned apartment in the area of (most often) coastal counties, which could not be implemented in practice, remain unresolved. According to the data we received from the CSORHC, at the beginning of 2022 there were a total of 1,313 former holders of tenancy rights, 661 in the assisted areas, i.e., the areas of special state concern, and 652 outside those areas where a final enforceable decision was made.

Recommendation 78 (reiterated)

For the Government of the Republic of Croatia, to: ensure the additional funds and housing units for users who are taken care of through priority lists

Recommendation 79 (reiterated)

For the first-instance authorities, to: speed up the processing of housing applications

Of that number, 448 cases were resolved in assisted areas / areas of special state concern and 353 outside these areas, which means that 512 cases remain to be resolved. It should be noted that out of that number, 273 cases are disputable, because the users do not respond to take over the assigned housing unit, and it is generally difficult to get in touch with them. The CSORHC indicates that in cooperation with the ATMIP, it conducted a public tender for the purchase of residential units in accordance with the plan of needs for housing provision for users in those areas, but that it cannot influence the response to their purchase.

As in several previous reports, we recommend that users who have final and enforceable decisions, but are still not provided with housing, be offered the possibility of exercising their right to housing in other parts of the assisted areas or outside of them, that is, in line with another model of housing.

Recommendation 80 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, in areas where there are problems in the implementation of the decision on the right to housing by renting out a state-owned flat or family home, to: offer users to exercise their rights in other parts of the assisted areas or in line with another model

Recommendation 81 (reiterated)

For the Ministry of Physical Planning, Construction and State Assets, to: carry out a write-off of claims for the lease of state-owned residential units, without the condition of retroactive payment of rents for the period until the conclusion of the apartment lease agreement

During the reporting period, we received less citizens' complaints related to the write-off of receivables due to unpaid rents. Nevertheless, the problem is still relevant. Namely, in several previous reports, we questioned how only claims older than three years were written off, which, in accordance with Article 229 of the Civil Obligations Act, were barred by the statute of limitations anyway, while retroactive settlement of claims within the statute of limitations was required and set as a condition for getting a lease agreement. This also collides with the Article 10, paragraph 10 of the Ordinance on Leasing Housing Units, stating that the lessee is obligated to pay the rent starting with the date the agreement was entered into, regardless of the date when they started using the flat. The previous erroneous practice of the CSORHC and its legal predecessors regarding the failure to conclude agreements with all users of housing provision before their taking possession of the residential housing unit, which is the legal basis for charging the rent, should not be resolved to the detriment of the users.

Therefore, it is still recommended that the MPPCSA writes off rental claims for housing units owned by the RC, without stipulating retroactive rent payment from 1 October 2014 until the conclusion of the apartment rental agreements.

During 2022, the CSORHC conducted 2,925 field inspections of the legality of the use of housing units through its regional offices, which resulted in the issuance of 120 first warnings and 74 second warnings for improper use of housing units where the right to housing provision was exercised. Although it is indisputable that the CSORHC has the right, in accordance with its Annual Control Plan, to control the use of housing units that it manages on behalf of the RC, according to the information available to us, some users, who are also members of the Serbian national minority, are controlled several times a year in their use of the housing unit. This, they state, causes them discomfort and unnecessarily restricts them in the freedom of movement guaranteed by the Constitution.

Regional housing programme

During 2022, the Regional Housing Programme (RHP) continued, within which nine sub-projects have been approved in the RC so far, as well as financial support for the co-financing of the operational costs of the implementation structure, for which a total of 17,123,136.00 euro of grants have been secured. By the end of the year, 382 families who met the criteria of social vulnerability as set out in the RHP were taken care of, which is 21 families more than in 2021. Within the scope of all the RHP sub-projects, it is planned to take care of a total of 402 families, i.e., 20 more families.

The implementation of two sub-projects (HR7 and HR8) was completed in 2022. Sub-project HR7 (Construction of a multi-apartment building in Vukovar) ensured permanent housing for 21 families of refugees, former holders of tenancy rights and returnees, and sub-project HR8 (Renovation, reconstruction or construction of 18 family houses) for another 18 families whose houses were destroyed during the Homeland War. Finally, through sub-project HR9, it is planned to purchase 38 apartments to provide permanent housing for the most vulnerable families of former holders of tenancy rights and persons who are in organised accommodation facilities. By the end of 2022, 18 apartments for a total of 55 people were purchased through six public calls, and the purchase of another apartment for a two-member family is under way. The seventh public call for the purchase of the remaining 19 apartments is planned for the beginning of 2023.

Provision of housing for victims of domestic violence

Victims of domestic violence can receive residential care for a period of up to two years in the entire territory of the RC, subject to the fulfilment of the prescribed conditions: the existence of a final court ruling on committed domestic violence; not owning or co-owning another habitable family house or apartment in the territory of the RC; and if the victim does not have enough funds to ensure a housing unit necessary for housing and cannot obtained funds through work, income from property, from those liable for maintenance or in another way, i.e. if the total income and the total receipts of the victim and adult household members do not exceed the amount of one tax basis per household member per month. The recommendation of the competent social welfare centre on the need for housing needs to be submitted as well.

We acted on the complaint of a woman who was a victim of domestic violence, which was confirmed by a final misdemeanour ruling against her husband. Because of the violence, she was forced to move out of the residential unit where she, together with her husband and other family members, exercised the right to housing. The family subsequently lost the right, but during the field check, the husband was at the address, so by official duty he got the right to housing. On the other hand, as a victim of violence, she moved out of the place, so she was not able to exercise her right to housing care on that basis.

It is particularly problematic that the perpetrator of domestic violence remained living in the residential unit, and the victim was forced to move out and seek new right to housing as a victim of domestic violence, which is of a temporary nature, and not as a holder of the right to housing.

Recommendation 82

For the Ministry of Physical Planning, Construction and State Assets, to: draft the amendments to the Act on Housing Provision in the Assisted Areas that would allow for permanent housing provision, in addition to the existing temporary one for victims of domestic violence who previously exercised the right to housing

After, among other things, and at our suggestion, she submitted a request for housing care as a victim of domestic violence, that right was established for a period of two years and submitted to the CSORHC for enforcement. However, given that it is certain that victims of domestic violence often will not be able to solve the housing issue permanently even after two years, we recommended to the CSORHC that within the framework of subsequent amendments to the AHPAA, in addition to exercising the right to temporary housing for victims of domestic violence, their permanent housing should be regulated by providing them with a housing unit in the cases when they have previously been granted with the right to housing.

As a result of the above, it is recommended to the MPPCSA that within the framework of subsequent amendments to the Act on Housing Provision in the Assisted Areas, in addition to exercising the right to temporary housing care for victims of domestic violence, it should also prescribe the possibility of their permanent housing.

2.12. Construction

In 2022 we received 25% less complaints than in the year before. They pointed to a number of irregularities in the field of construction, i.e., construction without the necessary permits, illegal construction in areas not designated as construction by spatial plans, continuation of illegal construction despite the imposed inspection measures, as well as the absence of control supervision of the imposed measures. Despite the decrease in the number of complaints, their content as well as the SIRC data show an increased awareness of citizens about the harmfulness of illegal construction for the community and the environment.

According to SIRC data, a total of 2,842 submissions were received from citizens or legal entities in 2022 requesting an inspection procedure due to illegal construction that threatened their rights and interests, as well as the public interest. The number of illegal construction and reconstruction of buildings along the sea coast, outside the construction area, on forest and agricultural land and in protected and valuable areas has increased. Out of a total of 7,069 SIRC inspections in 2022, 753 were carried out in a valuable or protected area.

Citizens also contacted us because of the months-long absence of inspection feedback regarding their inspection requests. The feedback notices were altogether missing or were not delivered within the legal deadline, although the official is obliged to provide information on the action taken following the inspection request within 30 days.

Citizens often do not know what legal means are available to them in such cases. Since the Ombudswoman is not authorised to conduct inspections following reports of illegal construction, we provided citizens with general legal information about available legal instruments and ways to protect their rights.

The citizens' complaints about possible illegal construction are an important source of information based on which construction inspectors initiate proceedings *ex officio*. According to the SIRC data, in 2022, out of a total of 7,069 inspections, 2,842 were carried out based on citizens' reports, in 981 cases a violation of regulations was found, and 87% were committed by investors and contractors who built without obtaining building permits, in which cases the inspection orders the removal of the building.

Thus, in 2022, the Construction inspectorate passed 862 decisions on the removal of illegally built buildings, 290 on the suspension of construction, issued 30 warnings on the elimination of irregularities and 68 orders on the harmonisation of construction with the construction acts.

Citizens proposed that the construction inspectorate conduct more frequent inspections following the orders for the illegal builders to suspend construction and remove the building, because the builders often continued construction even after the order. More frequent controls based on information from citizens about the continuation of illegal construction is one of the ways to suppress and prevent such practices. At the same time, in order to apply the right to good governance, it is necessary to inform citizens in a timely manner about the handling of their reports, which would gain their greater confidence in the functioning of administrative and inspection supervision.

Recommendation 83 (reiterated)

For the Construction Inspectorate, to: increase the number of controls over the implementation of their measures

Recommendation 84 (reiterated)

For the Ministry of Justice and Public Administration, to: adopt a regulation, in cooperation with the Ministry of Culture and Media on the type of fee for movables that belong to cultural heritage and are located in museums, galleries and other institutions

2.13. Property affairs

In 2022, we received 187 complaints related to citizens' problems related to property affairs, 110 of which related to housing, which is slightly more than 58% of received property-related complaints.
Of these, 33 cases relate to the consequences of the earthquakes that hit the City of Zagreb and the Zagreb and Sisak-Moslavina Counties in 2020, which have not been remedied so far. The area of housing, along with the property law affairs presented in this chapter, is dealt with in more detail in the parts of this Report related to the right to adequate housing and to the impact of the earthquakes on the realisation of human rights.

The number of complaints related to the restitution of the property seized during the communist rule (denationalisation) decreased significantly compared to 2021, so seven such complaints were received in 2022. However, many cases opened in 2021 due to the length of the procedure for the return of seized property were not completed in 2021, and some not even in 2022. Proceedings generally last longer than 20 years and, for example, it is indicated that in case of an appeal, the cases are returned to the first-instance body, instead of the MJPA deciding on the merits as a second-instance body, which would thereby shorten the proceedings. In addition to the problem of the lengthy proceedings in cases of restitution and compensation of confiscated property, citizens continued to point out the impossibility of executing legally binding decisions on the return of confiscated property, due to the failure to adopt implementing regulations. In 2022, we received only one complaint regarding the non-resolution of the request for the return of ownership rights over movable cultural property, which are an integral part of collections, museums and galleries and other institutions. However, the cases we opened based on complaints in previous years were not resolved during 2022. The mentioned movables were not returned to their owners, but remained in museums and galleries. The owners

should be compensated based on legally binding decisions, but this is not possible because the Regulation on a special type of compensation for movable cultural property that is an integral part of museums, galleries and other institutions has not yet been adopted, although the draft Regulation was in e-consultation back in 2016. In the Report for 2021, we recommended its adoption, but the Government of the RC did not respond to this recommendation.

In 2022, citizens also pointed to a multi-year delay in solving the issue of return of agricultural land by allocating replacement agricultural land owned by the RC. The reason for this is the legal gap created by the adoption of the Regulation on the criteria for the allocation of substitute agricultural land owned by the Republic of Croatia to the authorized persons for compensation for seized agricultural land, which was resolved by the adoption of the Act on Amendments to the Agricultural Land Act in May 2022. We will monitor the implementation of these legal changes, which should ensure the resolution of the backlogs.

Citizens also raised objections to tender procedures for the lease or sale of agricultural land owned by the RC, pointing to violations of laws and by-laws. According to the data of the agricultural inspection, 1,735 inspections were carried out in 2022, which is about 30% more than in 2021. Due to the identified irregularities, the inspection instituted 435 administrative measures and initiated 222 misdemeanour proceedings, some of which are still ongoing. The most frequent violations related to irregularities in the implementation of the Agricultural Land Act and other regulations on the maintenance, use and disposal of agricultural land. According to the submitted data, the irregularities related to the use of state agricultural land without a contract (91), as well as cases of use after the contract expired (57). The legal amendments stipulate that the use of agricultural land without a valid legal basis will be punished as a misdemeanour, and we will monitor the application of this provision in practice.

Recommendation 85

For the Ministry of Agriculture, to: continuously conduct administrative inspections over the procedures for allocation and use of state agricultural land

In accordance with the submitted data and further to the recommendation given in the Report for 2021, during 2022 more inspections and administrative inspections were carried out, assessing the implementation of the Agricultural Land Act and implementing regulations, which is an essential way of eliminating existing irregularities and preventing them in the future.

Considering that the amendments to the Agricultural Land Act entered into force, we expect that the requests that could not be have been considered until now due to the aforementioned legal loophole will finally be resolved.

2.14. Consumer rights

The Consumer Protection Act regulates the protection of the basic rights of consumers when purchasing products and other forms of acquiring products on the market. The new Decision on the establishment of the National Council for Consumer Protection from 2022 reinforces the importance of consumer protection, since the composition of the Council was expanded by several representatives: a representative of the ministry responsible for foreign and European affairs, a representative of the state administration body responsible for demography and youth, a representative of the Croatian Banking Association and three representatives of the representative trade union headquarters. This represents progress in understanding the importance of consumer protection; it is also important to support the work of associations that deal with this area.

Based on the complaints received from citizens, we opened 171 cases in the field of consumer protection in 2022, some 20% more than in 2021. This leads to conclusion that citizens are not sufficiently informed about how they can seek protection if they believe that their consumer rights have been violated.

Since we are not authorized to act on consumer complaints, we referred citizens to the competent authorities in order to protect their rights in a relevant procedure and we instructed them to seek detailed information about their rights on MESD's Central Consumers' Portal.

During 2022, the Market Inspection of the SIRC received 3,713 consumer complaints, of which 1,089 were founded, 880 were unfounded, while the determination of the factual situation for some of the complaints is in progress. The inspection process usually takes 30-60 days. Although the number of unfounded petitions is lower than in 2021, citizens are still not sufficiently informed about their consumer rights, and it is necessary to systematically inform them about their rights as well as ways of legal protection.

2.15. Rights of veterans and civilian victims of the Homeland War

2.15.1. Rights of Homeland War veterans

„Please, could you assign me a legal help appointment. I am a Homeland War veteran. I would like to personally present my current situation. Me and my family have difficulties handling it. I fought for a state that would respect the rule of law and would treat everyone equally."

As in previous years, the veterans' complaints related to the (non)recognition of the status of Homeland War veterans and Croatian disabled Homeland War veterans, the length of the procedure for determining their material and other rights, exercising the right to priority employment, problems with housing, as well as social vulnerability of veterans and their family members.

A certain part of veterans still has not, or has not adequately resolved their status and associated rights, as evidenced by the 3,725 new requests for acquiring the status of a Croatian Homeland War veteran submitted to the MD in 2022, while 359 requests were submitted to the MI. At the same time,

individual complainants state that the administrative bodies that decide on the status of veterans interpret the concept of defence of the sovereignty of the RC in a very restrictive and grammatical way, based on Article 3, paragraph 2 of the Act on Croatian Homeland War Veterans and their Family Members (ACHWVTFM) For example, we were approached by a person who was the president of the Crisis Headquarters during the Homeland War, performing numerous duties in defence preparations and the overall defence of the municipality. They stated that persons who were in the same position achieved the status of a Homeland War veteran, but their status was not recognised even though they submitted the request four times and initiated an administrative dispute twice.

Some of the veterans and their family members are still in a difficult economic and social situation and face serious problems in meeting basic life needs every day. Therefore, in 2022, the administrative bodies of the counties and the administrative body of the City of Zagreb passed 3,795 decisions for one-time financial assistance to socially vulnerable Homeland War veterans and their family members, based on which more than 5.5 million kuna was paid out. A total of 2,535 applications for extraordinary one-time financial assistance, which is awarded due to serious illness, death, natural disaster, social exclusion and threat to life and health were approved, and almost 6 million kuna was paid out.

Although the MVA awarded 62 flats, 140 housing loans and 279 financial grants worth more than HRK 37 million and continued with the renovation of old and dilapidated flats, as well as with organised housing construction in 2022, the needs for housing exceed the institutional possibilities because there are still 8,116 unresolved requests for housing loans and 1,580 unresolved requests for financial support.

Recommendation 86

For the local and regional self-government units, to: include construction land and communal equipment free of charge in their spatial plans in line with the obligation from the Act on Croatian Homeland War Veterans and their Family Members

Certain LGUs, in cases of granting housing loans to veterans for the construction of a family home in their places of residence, do not cede construction land and communal equipment free of charge in accordance with the obligation prescribed in Art. 87 of the AHWV, and a large number of them do not allocate land for this purpose at all in their urban plans. Among other reasons, they are prevented by unresolved property relations pertaining to land owned by the state located in their territory.

It is still difficult to consume the right of preference for veterans in employment, among other things, because veterans and their family members are not always sufficiently informed about their rights and how to exercise them.

The needs for psychosocial support programmes for veterans are greater than the existing capacities, especially taking into account that the Centres for psychosocial support also provide support for civilian victims of the Homeland War. However, in the context of empowering the veterans and civilian victims and raising their quality of living during 2022, the Veterans' Centre in Šibenik opened its doors within the scope of the establishment of veterans' centres in the RC project. It was visited by the Ombudswoman during November 2022. In 2023, centres are expected to open in Daruvar, Sinj and Petrinja, which, in addition to the already existing Home of Croatian Veterans in Lipik, which we also visited in 2022, will contribute to raising the quality of life of veterans and their family members, help their social inclusion, acquiring new knowledge and skills, building self-confidence and raising the quality of life. Such projects represent progress in the development of the system of care for veterans based on the recognition of their contribution, social solidarity and their actual needs.

2.15.2. Civilian victims of the Homeland War

The past year was marked by the beginning of the implementation of the Act on Civilian Homeland War Victims (ACHWV). In our annual reports we have continuously been warning about the need for its adoption, considering that as many as 20 years after the Homeland War, the civilian victims have not resolved their status and the associated rights either in a satisfactory manner or at all.

According to the available data of the SAOs (State Administration Office) in the counties and the City of Zagreb, since the entry into force of the ACHWV, i.e., from 31 July 2021 to the end of 2022, a total of 888 requests regarding the recognition of status and rights have been positively resolved, of which 178 were recognised as civilian victims of the Homeland War. Simultaneously, we do not have data on the number of submitted applications for obtaining the status of civilian victim of the Homeland War. Before the adoption of this Act, CSOs estimated the number of civilian victims to between 4,000 and 8,000. It is also indicated that some problems are still not resolved, that the procedure for obtaining the status is lengthy, and according to the data of the SAOs in the counties, a large number of cases are queueing at the MVA's Commission for checking the existence of obstacles from Article 5 of the ACHWV. More precisely, the Ordinance on the method of obtaining the status and rights of civilian victims of the Homeland War prescribes that the first-instance body upon obtaining evidence from Article 9 and 10 of the ACHWV submits the case file to the aforementioned MVA's Commission, which, after determining whether there are any obstacles, returns the case to the first-instance body for further proceedings. If no obstacle from Article 5 of the ACHWV is found, the case is submitted to the competent medical council for expert examination of the cause and percentage of damage to the body in line with the Ordinance on the method of appointment and work methodology of medical councils in the process of acquiring the rights of civilian victims of the Homeland War.

Additionally, civilian victims of the Homeland War are not sufficiently informed about their rights and the possibilities of exercising them. As an implementing regulation, the Ordinance on the method of obtaining the status and rights of civilian victims of the Homeland War determines that the procedure for recognising the status of a civilian disabled in the Homeland War and other rights is initiated at the request of a person using a prescribed form that is submitted to the competent administrative body in the county or in the City Zagreb according to the place of residence of the applicant. Some of the above bodies have not yet made these forms publicly available on their websites, while it is difficult to find them on the websites of others.

Recommendation 87 (reiterated)

For the Ministry of Veterans' Affairs, to: create and implement a campaign with the purpose of better informing of civilian victims about their rights

Recommendation 88 (reiterated)

For the administrative bodies of the counties, to: make available and clearly visible the forms for initiating the procedure for the recognition of the status of a civilian victim of the Homeland War on their websites

The issue of the fate of the missing and forcibly abducted persons in the Homeland War remains the most difficult open question related to the consequences of the war in the RC, because the families of the missing individuals have the right to know the truth about the fate of their loved ones. According to the latest official data from 2022, the RC is still looking for 1,816 missing persons, of which 1,423 are missing and 393 are human remains. Despite the statistical data of State Attorney's Office and the statements that they continuously work on war crime cases and that the statistical data do not show stagnation but the opposite, the impression of the victims and a part of

the public is that there is no significant progress in processing the war crimes. Therefore, it is necessary to increase institutional efforts in the processing of all war crimes committed during the Homeland War and to improve regional cooperation in the prosecution of war crimes and finding of the missing persons.

2.16. National minority rights

This year marked the 20th anniversary of the adoption of the Constitutional Act on the Rights of National Minorities (CARNM), which brings to life some of the highest values of the constitutional order of the RC: equality, national equality and respect for human rights. It regulates the rights of national minorities, ensures their political subjectivity and gives national minorities a place in the society. The CARNM introduced high standards of respect for the minority rights, and the best results are achieved in the area of cultural autonomy. Progress is also achieved in education by increasing the number of schools where classes are held in minority languages (as well), but in the field of education there are problems with schools with classes in the Serbian language and script and with schools where exclusively or predominantly Roma classes are formed, which we further discuss in the chapter Discrimination on the basis of racial or ethnic origin. The most pronounced problems in the implementation of rights from the CARNM are present in the areas of the right to use the language and script of national minorities, the right to adequate representation among employees in the administration and the judiciary, and to adequate presence in the media.

Although the amendments to the Operational Programmes for National Minorities for the period 2021-2024 prolonged the implementation of numerous activities, the Government cooperates with representatives of national minorities and institutions, and the problems and needs of minority communities are gradually resolved. In order to fulfil as many of the set goals as possible, it is necessary to monitor the implementation of the Operational Programmes and to encourage the holders of activities to execute them.

The results of the 2021 Population Census in the RC, published in 2022, showed a significant decline in the total number of inhabitants, which is even more pronounced among national minority members. Considering that many rights of national minorities derive from a certain share of national minority members in the population, especially at the level of municipalities, cities and counties, the results of the Census have or may have a direct impact on the right to election of councils and representatives of national minorities, the right to be elected to representative and executive bodies of the LRGUs and the right to use minority languages and scripts.

Although the share of members of a minority at the local/regional level may be lower than the law prescribed for exercising the right to representation in the representative and executive body and to the equal use of the minority language and script, local and regional self-government units may recognise or expand these rights by their statutes.

The results of the 2021 Population Census

According to the 2011 Population census, 328,738 national minority members lived in the RC, while according to the 2021 Census, there were 240,079 of them, which represents a 26.97% decrease. For comparison's sake, the total number of inhabitants of the RC in 2011 was 4,284,889, while in 2021 there were 3,871,883 inhabitants, which is 9.64% less.

The share of national minority members in the total population in 2011 was 7.67%, and in 2021 it dropped to 6.2%. Out of 22 national minorities, 16 recorded a decrease in the number of members, while only six recorded an increase.

NUMBER AND SHARE OF NATIONAL MINORITY MEMBERS IN THE TOTAL POPULATION					
	2011		2021		
	Number:	%	Number:	%	Decrease/ Increase (%)
Inhabitants - total	4,284,889	100	3,871,833	100	-9.64
National minorities	328,738	7.67	240,079	6.2	-26.97
Albanians	17,513	0.41	13,817	0.36	-21.1
Austrians	297	0.01	365	0.01	+22.9
Bosniaks	31,479	0.73	24,131	0.62	-23.34
Bulgarians	350	0.01	262	0.01	-25.14
Montenegrins	4,517	0.11	3,127	0.08	-30.77
Czechs	9,641	0.22	7,862	0.2	-18.45
Hungarians	14,048	0.33	10,315	0.27	-26.57
Macedonians	4,138	0.1	3,555	0.09	-14.09
Germans	2,965	0.07	3,034	0.08	+2.32
Poles	672	0.02	657	0.02	-2.23
The Roma	16,975	0.4	17,980	0.46	+5.92
Romanians	435	0.01	337	0.01	-22.53
Russians	1,279	0.03	1,481	0.04	+15.79
Rusyns	1,936	0.05	1,343	0.03	-30.63
Slovakians	4,753	0.11	3,688	0.1	-22.41
Slovenians	10,517	0.25	7,729	0.2	-26.51
The Serbs	186,633	4.36	123,892	3.2	-33.62
Italians	17,807	0.42	13,763	0.36	-22.71
Turks	367	0.01	404	0.01	+10.08
Ukrainians	1,878	0.04	1,905	0.05	+1.44
Vlachs	29	0.00	22	0.00	-24.14
Jews	509	0.01	410	0.01	-19.45

Cultural autonomy

The Government of the Republic of Croatia continues supporting the cultural autonomy of national minorities. The Ministry of Culture and Media co-finances programmes preserving cultural identity of minorities, and through the Council for National Minorities, the associations and institutions of national minorities receive funds that enable them to express, preserve and develop their identity in the fields of informing and publishing, cultural amateurism and event organising.

By the decision on the allocation of funds provided in the State Budget for the needs of national

minorities in 2022, the Council allocated HRK 50.2 million to associations and institutions of national minorities, i.e., 5.5% more than in 2021. Based on the decision on the allocation of funds to the programmes for creating material prerequisites for the realisation of cultural autonomy of the Roma national minority in 2022, HRK 1.12 million has been allocated to co-finance the construction of social housing in the Roma settlements in Slavonski Brod and Parag, which will bring multiple benefits to the Roma communities. In addition, the Roma educational and cultural centre was opened in Zagreb.

At local levels, funds are allocated to minority associations that implement cultural projects, so in the area of cultural autonomy, a high degree of implementation of CARNM is achieved.

Representation of national minority members in government bodies and in administrative and judicial bodies

Regarding the political representation of national minority members in the government bodies, due to the decrease in the share of the minority population, the number of representative and executive bodies at regional and local level in which they have the right to political representation will also decrease. Thus, the share of Serbian minority members dropped below the minimum level guaranteeing them the right to deputy prefects in Bjelovar-Bilogora, Požega-Slavonia, Primorje-Gorski Kotar and Virovitica-Podravina Counties, which is also the case with the Czech national minority in the Bjelovar-Bilogora County. The share of the Serbian national minority members dropped below the minimum guaranteeing them the right to elect deputy mayors/municipality mayors of Pakrac, Podgorač, Viljevo, Rasinje and Dragalić, as well as the right to elect representatives in 18 city/municipal councils, in: Kutina, Sisak, Jasenovac, Ivanska, Veliki Grđevac, Viškovo, Otočac, Brinje, Crnac, Čačinci, Lukač, Voćin, Garčin, Vladislavci, Osijek, Petlovac, Tovarnik and Fažana. The share of members of the Roma minority in Peteranec, the Hungarian minority in Erdut and the Italian minority in Višnjan also fell below the minimum guaranteeing them the election of their representatives in the municipal council.

On the other hand, due to the increase in their share in the total population of their LRGU, members of the Roma minority will have the right to elect the deputy prefect of the Međimurje County and the deputy mayor of the Municipality of Mala Subotica. They will also have the right to elect representatives in the new six city/municipal councils, in Cestica, Đurđevac, Hlebine, Petlovac, Mursko Središće and Domašinec, while due to the increase in their share, members of the Serb minority will be able to elect a representative in the municipal council in Berek, and Bosniaks in Ston.

Since the CARNM, the Local Elections Act and the Local and Regional Self-Government Act give units the possibility to provide for the election of minority representatives in representative and executive bodies in their statutes despite the share of minority members being lower than the minimum prescribed by law, the exact number of local and regional representative and executive bodies in which members of national minorities will exercise their right to political representation will be known immediately before the next local elections.

With respect to the right of national minority members to proportional representation among employees of the state administration bodies and the judicial bodies as prescribed by the CARNM, according to the latest available data by the MJPA, as of 31 December 2021, among the employees of SABs, professional services and Government’s offices, there make up only 3.03%.

According to the MJPA data, there are 2.86% of national minority members among officials in courts, 3.07% among administrative staff, employees and trainees, while in state attorneys' offices there are 3.62% of them among officials, and 2.95% among administrative staff, employees and trainees. However, since the MJPA also includes nationally undecided persons among members of national

minorities, the actual share of members of some of the 22 national minorities in the judiciary is still somewhat lower: 2.74% among court officials, 2.73% among administrative staff, employees and trainees, while in state attorney's offices there are 3.46% among officials and 2.54% among administrative staff, employees and trainees. Based on the available data, it is clear that the right of priority in the employment of national minority members in the state administration and the judiciary from Article 22 of the CARNM is applied extremely rarely, as well as that it will not achieve a proportional representation of members of national minorities.

Recommendation 89

For the Ministry of Justice and Public Administration, to: stop including the nationally undecided persons in the data on the number of national minority members employed in the state administration bodies and the judiciary

PUBLIC COMPETITIONS AND ADVERTISEMENTS FOR POSITIONS IN STATE ADMINISTRATION BODIES, PROFESSIONAL SERVICES AND GOVERNMENT'S OFFICES				
	Employees needed	Declared their advantageous position in line with the CARNM	Employed candidates who declared their advantageous position in line with the CARNM	
			Based on the best results in the selection process	With the application of advantages from the CARNM
2019	1,673	61	9	0
2020	350	19	2	0
2021	1,386	50	3	2
Total	3,409	130	14	2

PUBLIC COMPETITIONS AND ADVERTISEMENTS IN THE JUDICIARY				
	Employees needed	Declared their advantageous position in line with the CARNM	Employed candidates who declared their advantageous position in line with the CARNM	
			Based on the best results in the selection process	With the application of advantages from the CARNM
2020	559	28	1	2
2021	890	66	7	2
Total	1,449	94	8	4

Although part of the public believes that the right of priority for national minority members in employment according to Art. 22 of the CARNM is unfair and that it favours members of minorities, the application of this mechanism does not discriminate against the majority because it is only applied if the candidate, a member of a national minority who invokes this right, is at the top of the list and equal in points with a candidate who is not a member of a minority group, or with a candidate who is a minority, but did not invoke the priority right. At the same time, the priority cannot be applied if the body has already achieved proportional representation of the national minority to which the candidate who invoked the right of priority belongs. Thus, the right of priority from the CARNM never favours a minority candidate who scored worse on the test than any other candidate.

Equal official use of languages and scripts of national minorities

Preservation of minority languages is not only a matter of preserving cultural diversity, but also of social justice.

Fernand de Varennes, PhD,
UN Special Rapporteur on Minority Issues

Equal official use of the minority language and script is implemented in the territory of an LGU when members of a particular national minority make up at least a third of the population of that unit. However, they are also implemented if this is provided for in international agreements, as well as when prescribed by the statute of a local or regional self-government unit, despite the fact that members of a minority make up less than a third of the unit's population.

According to the results of the 2011 Census, members of a particular minority made up at least a third of the population in 27 LGUs: in 23 units, those were the members of the Serbian minority, while members of the Czech, Slovak, Italian and Hungarian national minorities made up a third of the population in one unit each. According to the 2021 Census, the share of members of a particular national minority decreased below a third in four LGUs: Serbian in the Municipality of Donji Kukuruzari (from 34.82% to 31.20%) and the towns of Vrbovsko (from 35.22% to 32.38%) and Vukovar (from 34.87% to 29.73%) and the Slovak minority in the Municipality of Punitovci (from 36.94% to 32.38%), which is why the minority language no longer has to be in official use in these units.

On the other hand, the share of the members of the Roma national minority in the Municipality of Orehovica increased from 18.29% to 33.68%, which created the conditions for equal official use of the language and script used by the members of the Roma minority.

After the publication of the results of the 2021 Census, the Town Council of the Town of Vukovar abolished bilingualism, which had been introduced there to a minimal extent. In addition, the Advisory Committee for the Framework Convention for the Protection of National Minorities and the Committee of Experts for the European Charter for Regional or Minority Languages emphasise that the legal threshold of at least a third of the population is too high, and the Resolution on the implementation of the Framework Convention for the Protection of National Minorities by the RC, as adopted by the CoE's Committee of Ministers in February 2022, recommends its reduction.

Additionally, the authorities at the national level are recommended to actively encourage local units where minority language speakers make up less than a third of the population, but are present in sufficient numbers, to introduce the minority language into equal and official use.

Recommendation 90 (reiterated)

For the Ministry of Sea, Transport and Infrastructure, the Ministry of Justice and Public Administration and Hrvatske Ceste, to: agree on and adopt an action plan of erecting bilingual traffic signs with names of populated places and implement it in all units that allow for the implementation of that right in their statutes

While Istria is an example of respect for multi-ethnicity and multiculturalism, as the Italian language has been introduced in numerous units where members of the Italian minority make up significantly less than a third of the population, the Cyrillic alphabet is still stigmatised, so the bilingual boards with the names of places, except partially in Donji Lapac, are not set up in units that provided for the exercise of this right in their statutes,

not even in the municipalities where the

Serbian community makes up over 90% of the population. In order to realise these rights, we reiterate that it is necessary to adopt an action plan for the erection of bilingual traffic signs with the names of populated places and to implement it in all units that allowed for the implementation of that right in their statutes.

In addition, in December 2021, the new statute of the Municipality of Dežanovac, in which 22.80% inhabitants are Czech and the use of the Czech language and script has a long tradition, omitted the previous provisions that stipulated the equal official use of the Czech language in Dežanovac, Donji Sređani and Golubinjak, although previously the MJPA and the OHRRNM expressed the opinion that the reduction of these rights is not in accordance with the European standards and best practice, that it is necessary to maintain their previous level, as well as that the Municipality of Dežanovac was previously cited as a positive example in the reports on the implementation of the Framework Convention and the European Charter that the RC submitted to the Council of Europe.

In order to prevent the reduction of the achieved level of rights, as well as the destruction of Latin-Cyrillic inscriptions that should still be installed, it is necessary to raise awareness about the rights of national minorities and the significance and value of minority languages and scripts, as well as the need to nurture the diversity of identities in the communities where members of national minorities traditionally live, which was also stated in the Resolution of the CoE's Committee of Ministers.

Recommendation 91

For the Government of the Republic of Croatia, to: design and implement a campaign aimed at the general public on the value of minority languages and scripts and their use in the public sphere

PERFORMANCE FESTIVAL

A scandal in Omiš: an arrogant young man took a board with an inscription in Cyrillic letters and shouted – "Keep it on the other side of Drina". Then he broke it and threw it in the garbage

A young man tramples on a bilingual board Facebook Screenshot

In August, some of the most eminent Croatian contemporary artists gather in Omiš, and that was the case the past few days at the 13th consecutive Almissa Open Art, which took place this year under the name "Paths. Singularity. Multitude." During the festival, 13 performances took place, and some artists left their artwork in the public space of Omiš. A bilingual board with an inscription in Cyrillic letters that reads "When a Serb and a Croat agree, even lead can swim" by Anando Štambuk stood on the "Pillar of Shame" on Poljički Square for less than three minutes. It took that long for it to cause a reaction of a young man who broke it saying "keep the Cyrillic alphabet on the other side of Drina!" and threw it in the trash. *Slobodna Dalmacija, 16 and 17 August 2022*

In the Resolution of the CoE's Committee of Ministers it was also stated that it is necessary to ensure that all local units observe and apply the stipulated minority language rights, given that mechanisms have not yet been established for cases in which LGUs do not implement their obligations or obstruct the implementation of these rights, although the Constitutional Court ordered the Government of the RC to do so back in 2014 and then again in 2019. Thus, in the municipality of Gračac, the provisions of the statute on the use of the Serbian language and the Cyrillic alphabet are still not harmonised with the CARNM and the Act on the Use of Languages and Scripts of National Minorities, while in Plaški, Vrbovsko and Donji Kukuruzari, the statutes are harmonised, but the rights were not applied in practice.

According to the CARNM, members of minorities have the right to identity cards in the minority language and script, which are predominantly used by the Italian minority.

NATIONAL MINORITY	ID CARDS ISSUED IN THE LANGUAGE AND SCRIPTOF A NATIONAL MINORITY					
	2017	2018	2019	2020	2021	2022
Italian	**2,721**	**3,184**	**2,767**	**2,585**	**3,638**	**3,871**
Serbian	**118**	**98**	**85**	**93**	**131**	**143**
Hungarian	**27**	**36**	**26**	**36**	**50**	**46**
Czech	**30**	**36**	**21**	**41**	**47**	**69**
Rusyn	**4**	**2**	**4**	**3**	**4**	**4**
Slovakian	**1**	**2**	**3**	**3**	**3**	**-**
TOTAL	2,901	3,358	2,906	2,761	3,973	4,133

Education using language and script of national minorities and intercultural education

Education in the languages and scripts of national minorities is one of the foundations of preserving minority identities. Of the 22 national minorities, 16 have the possibility of education in their own language and script. From pre-school to high school institutions, over ten thousand children are involved in upbringing and education in minority languages, and the number of schools where such curriculum is carried out is constantly increasing. Thus, the MSE issued approvals for the organisation of teaching in the language and script of national minorities according to model C for seven new primary and two secondary schools for the year 2022/2023.

After the MSE adopted the curriculum for the subject Language and culture of the Roma national minority (model C) in 2020, approvals were issued for the organisation of classes and employment of teachers in four elementary schools: in Jagodnjak, Kuršanec, Orehovica and Podturen, and the last three implemented the subject, encompassing a total of 80 students.

After progress was made in 2021 with regard to schools in the Vukovar-Srijem County where classes are conducted in the Serbian language and the Cyrillic script, because the County accepted the statutes of the schools, there was no progress in resolving the requests, submitted in 2015, of Borovo, Negoslavci and Markušica municipalities for the transfer of the founding rights over their primary schools, which were. Although in 2019 the MSE issued a recommendation to the County to include the

requests of these municipalities for the transfer of the founding rights over the schools on the agenda of the county assembly, the county assembly has not yet discussed these requests nor has it transferred the founding rights, which is why we are repeating the earlier recommendation.

In order to raise awareness about the value of minority communities, the CoE's Committee of Ministers recommended that the history, music and civic education curriculum for all students in all schools should include content on the contribution of national minorities to Croatian society, as well as on their history and culture. During 2022, an analysis of the curriculum and textbooks was made and it was concluded that the national curricula promoted

Recommendation 92 (reiterated)

For the Vukovar-Srijem County, to: act in line with the Primary and Secondary School Education Act and transfer the founding rights over the schools in Borovo, Negoslavci and Markušica to the corresponding municipalities

Recommendation 93

For the Ministry of Science and Education, to: include more contents related to the contribution of members of national minority members to a society in general and to the local communities in the curricula aimed at all students

European principles and recommendations, that to a significant extent this is also the case with the curricula for the individual subjects, but it was stated, among other things, that textbook authors should avoid collectivising and often identifying minority groups with a certain government or regime, that they should include in textbooks more references and persons related to national minorities, as well as encourage learning about the positive contribution of minorities in the local community where the teaching is taking place. [xiv]

National minorities' councils and representatives

Although they have only an advisory role, councils and representatives of national minorities as part of the local and regional self-government can have a significant influence and contribute to the better functioning of multi-ethnic communities and participate in the creation of development, in the mutual interest of the majority and the minority. However, the potential of cooperation between the government and the minority councils and representatives is not always recognised, sometimes by the minority councils and representatives, and sometimes by the LRGUs. For this reason, members of national minorities point out that it would be useful, in case the CARNM were to be amended in the future, to use that opportunity to strengthen the role of the councils and the representatives in case, i.e., in addition to the powers of an advisory nature, to enable them to participate in making decisions important for national minorities. In addition, they state that in local communities where members of a national minority make up the majority of the population, the election of the councils is unnecessary, as well as that it is necessary to reduce the number of council members in order to improve the quality and enable more efficient work.

Taking into account the results of the 2021 Census, the conditions for the election of 70 councils and

43 representatives of national minorities have ceased to exist. Of the 70 cases in which there are no longer conditions for the election of the councils, in 16 the conditions for the election of representatives have been met, while 54 councils will cease to exist without the right to elect representatives. Thus, instead of the previous 515, 445 councils will be elected, and instead of 144 representatives, 116 will be elected.

Given that the last elections for minority self-government, held in 2019, were marked by an uneven, but on average low voter turnout, partly due to insufficient information provided in the media, it is necessary to strengthen the provision of information regarding the elections for the councils and representatives of national Minorities especially in the local media, and ensure a sufficient number of polling stations, in order to increase the turnout, and thus the legitimacy of the elected councils and representatives, both when it comes to the minority voters as well as the self-government units.

Recommendation 94

For Electoral Commissions, to: inform the citizens via the media about the holding of the elections for the councils and representatives of national minorities and to set up a sufficient number of polling stations

Recommendation 95 (reiterated)

For the Croatian Radiotelevision, to: hold consultative meetings with representatives of the Council for National Minorities on a regular basis

Recommendation 96

For Croatian Radiotelevision, to: increase the share of programmes about national minorities, to include them to a greater extent in the general programmes, and to regularly use minority languages in programmes intended for national minorities

Access to the public media

The media has an important role in creating an atmosphere of tolerance in society, that is, in promoting the equality of national minorities and preserving their cultural identities. Unfortunately, the representation of national minorities in the public media is still one of the areas in which minority rights are most poorly exercised.

The Council for National Minorities states that the trend of insufficient representation of programmes intended for members of national minorities in the overall programme of HRT continues, i.e., that the right to access to the public media in the scope guaranteed by the CARNM, the Act on HRT and the Agreement between HRT and the Government of the RC is not being exercised. In addition, in order to improve the content and the share of programmes about national minorities in the overall programme and the broadcasting and production of the programmes in the languages of national minorities, more intensive cooperation between the Council for National Minorities, the OHRRNM, minority organisations and the minority media with the Directorate and Programme Council of HRT is required.

The need for a more significant presence of national minorities in the public media was also pointed out in the Resolution of the Council of Ministers of the CoE, and the Committee of Experts for the European Charter stated that the programmes “Prizma” and “Manjinski mozaik” are short and that minority languages are irregularly used in them, that in the current form they do not contribute enough to the promotion of minority languages, i.e. that all minority languages covered by the Charter should

be allocated regular and sufficiently long broadcasting times in the television and radio programmes.

In addition, the inclusion of minority issues in the general programmes would contribute to the promotion of tolerance and diversity and the development of a culture of dialogue between the majority and the minority.

It is positive that a new mission goal for the HRT was added to the new contract between the HRT and the Government of the RC for the period from 1 January 2023 to 31 December 2027: preserving the dignity and promoting values of national minorities, as well as dedicating the educational programme content to cultural achievements of national minorities. In January 2023, the national minority newsroom was finally established, but it remains to be seen whether sufficient personnel and technical capacities will be provided, and whether its establishment will contribute to a greater share and quality of HRT's programmes on national minorities.

Furthermore, it is necessary to additionally educate editors and journalists, in order for them to inform the public more objectively and sensitise it about the negative consequences of hate speech and spreading of stereotypes and prejudices, given that the duty of the public media is to protect and promote fundamental human rights, respect diversity, encourage tolerance and promote the values of national minorities.

In conclusion, the times of crisis and uncertainty favour the occurrence of intolerance and hatred towards others and those who are different. This is why it is necessary to reduce the existing tensions and build trust, protecting our minorities with responsible behaviour, because society can only progress if every citizen feels equal and protected.

Given the drastic decline in the number of national minority members, minority identities must be respected even in cases where members of a minority participate in the population of a local unit in lower shares than prescribed, which is made possible by the CARNM. But in order for minority rights to really be implemented in practice, through education, media reporting and political discourse devoid of intolerance and prejudice, the entire society should be made aware of the values of minority cultures, the contribution of members of national minorities to Croatian society, and the importance of respecting minority rights.

2.17. Discrimination on grounds of racial or ethnic origin

The Ombudswoman's survey on attitudes and awareness of discrimination and forms of discrimination conducted in 2022 shows that 38.4% of respondents state that nationality or origin is still the most widespread grounds for discrimination in the RC. When asked which groups most often face discrimination, citizens still reply that those are the Roma (18%) and the Serbs (3%). The data on social distance show that as many as 55% of respondents believe that most of the Roma live on social welfare and do not want to work, slightly more than a quarter say that Roma working in the service industries would repel many clients, while almost a quarter of the respondents would have a problem hiring the Roma if they were a company owner.

Discrimination on the grounds of racial or ethnic affiliation has been the most common basis for citizens to complain to us since the beginning of the application of the ADA. Members of national minorities, mostly Serbian and Roma, and migrants are especially exposed to it.

During 2022, the e-Consultations procedure was initiated for the National Plan for the Protection and

Promotion of Human Rights and the Suppression of Discrimination for the period 2021-2027, as well as for the Action Plan for the Suppression of Discrimination for 2022 and 2023, which includes measures for combating racism, xenophobia and all forms of intolerance, but to an insufficient extent. Although it could be concluded from the title that the National Plan was implemented in 2022, it had not yet been adopted. Not even the Action plan for the integration of of the persons under international protection was adopted in 2022, and the previous one expired in 2019.

Recommendation 97

For the public and state bodies, to: apply the General Data Protection Regulation and the principle of data collection on equality when collecting ethnically segregated data

For the purposes of creating policies aimed at the protection and promotion of human rights and combating discrimination and monitoring their application, it is particularly important to collect data, especially the so-called equality data. The collection of data is based on several principles: the principle of participation – that the bodies collecting it proactively include the groups on whom data is collected, e.g. The Roma or refugees; the principle of disaggregation of data – the states should collect and publish data disaggregated by discrimination grounds; the principle of self-identification – the data on personal characteristics should be provided by individuals to whom the data refer, in accordance with the principle of "do no harm"; as well as the principles of transparency, privacy and responsibility. Collecting such data in the RC is still a challenge, so despite our recommendations, the CHIF repeatedly points out that it does not plan to collect ethnically segregated data of insured persons, stating that they are prevented from doing so by the provisions of the General Data Protection Regulation. This ignores the exceptions provided for in the General Regulation, according to which the collection of precisely such data is permitted in the sphere of public health. Therefore, we once again call on the public and state bodies to begin the collection of ethnically segregated data, with the application of the provisions of and exceptions from the General Data Protection Regulation and of the aforementioned principles.

The Roma

"Honestly, I'm having a rough time. I cannot describe the feeling I get while my other Croatian friends may go out wherever they want, while I am not allowed in just because."

In 2022, we received the largest number of Roma complaints so far, which is partly the result of cooperation with representatives of the Roma national minority, the Kali Sara Romani Union, and our anti-discrimination contact points ILC (Information Legal Centre) Slavonski Brod and CRP Sisak.

The Roma all across Europe continue to face a lack of integration, marginalisation and discrimination.[xv] Only approximately 43% of the Roma in the EU hold a paid job, while 41% of them have such a job in the RC, which is far below the general European employment average of 72%. More than 50% of the

Roma in the EU live in damp or dark houses without adequate sanitary facilities, while 55% of them live in such conditions in the RC. In the EU, 22% of Roma do not have running water, while 20% do not have it in the RC. The figures on Roma education are also very discouraging. In the EU, 52% of Roma children between the ages of six and 15 attend schools where all or most of the students are Roma, and the same applies to 53% of Roma children in the RC, which is a 13% increase compared to the results of the survey conducted in 2016.

Although the problems of the Roma community are well recognised in the National Plan for Roma Inclusion from 2021 to 2027 (NPRI), the accompanying Action Plan is not ambitious enough; it does not contain enough measures for the realisation of the achieved goals, and the activities listed in it are often the already existing activities of the competent authorities.

The ILC Slavonski Brod, based on information collected by Roma mediators during field visits, indicates that the most common problem faced by Roma is discrimination in employment and in the workplace, as well as that they are prohibited from entering certain hospitality establishments, especially in Međimurje.

Acting on the complaints of the ILC, we found that three bars in Čakovec banned the entry of Roma through public announcements on social networks or in private electronic communication. We warned the bars that by banning access to services based on ethnicity or national origin, they are committing direct discrimination, and we asked them to post an apology and welcome to everyone, regardless of their origin, on social networks. It is clear from the statement of the owners of the bars and subsequent field checks by Roma mediators that the bars acted in this way.

Regarding the advertisement on social networks in which the owner stated that she does not rent the apartment to Roma, a violation of the Anti-Discrimination Act was found in the misdemeanour procedure and she was fined, albeit below the legal minimum.

These are examples from which it is clear that individuals believe that the prohibition of discrimination does not apply to the private sector and the provision of services and goods. Therefore, it is important to remind that the ADA prohibits discrimination committed by anyone, which includes all legal and natural persons.

It is positive that the number of Roma students receiving the MSE scholarships has increased. Previously it ranged between 20 and 25, while in the academic year 2021/2022 it increased to 60 to 65 students.

However, Roma students are still faced with segregation in education. Therefore, we remind that in the Report for 2021 we recommended the MSE to create an action plan for desegregation, which has not yet been done. Meanwhile, the practice of placing Roma students into separate classes continues. In mid 2022 the schools attended by Roma students provided us with the data indicating that this practice exists in ten schools, half of which are in Međimurje. In addition to segregated classes, two schools have completely segregated regional schools, which means that students who attend them do not have contact with the children from the majority population even outside of class, which undoubtedly prevents their integration.

While, viewed at the level of the individual schools, forming of separate classes is often justified by the greater number of Roma compared to students from the majority population, our analysis showed that in some schools the share of Roma students attending segregated classes exceeds the share of Roma students in the school. This is the case with Petrijanec primary school that has 32% Roma students and

70% of them attend segregated classes. In the schools that provided us with the grade averages by class, we notice lower success in ethnically segregated classes, and many schools warn about primary school drop-out at the age of 15. Thus, as many as 59 Roma students quit their education in the 2020/21 school year. A significant number of Roma students do not enrol in secondary school even when they live in urban areas, and they are very poorly involved in extracurricular activities. The fact that there are no teachers/professors belonging to the Roma national minority in the schools they attend certainly does not help them to continue their education.

Recommendation 98 (reiterated)

For the Ministry of Science and Education, to: immediately draw up an Action plan for the desegregation of Roma students in cooperation with schools and local communities

Segregating Roma children in schools was confirmed as discriminatory back in 2010 by the ECtHR in *Oršuš and Others v. Croatia* case. In the 2022 case of *X and Others v. Albania*, the ECtHR established the existence of discrimination, despite the fact that Albania stated that the Roma children were not segregated on purpose and the Court further established that the state's failure to immediately implement the de-segregation measures was also discriminatory. Therefore, in addition to the fact that segregation is discrimination and therefore prohibited by the ADA, and taking into account that education is one of the key prerequisites for getting out of poverty, we once again recommend the MSE to urgently draw up an Action plan for de-segregation in cooperation with schools and local communities.

In the context of housing, the CSORHC pointed out difficulties in the implementation of the Operational Programme for the Roma National Minority, or the Annual Programme for the Improvement of the Living Conditions of the Roma National Minority for 2022, stating that during 2022, a total of 914 decisions on the granting of aid were received from the OHRRNM, which far exceeded the available funds for the implementation of the programme, so not everyone who received the decision could be included in the implementation. The CSORHC stated that in preparation for the adoption of the programme for 2023, they proposed that the implementation should also include some users who were not included in the 2022 programme, but it is unclear how the users who apply and meet the conditions in 2023 will be included unless there is a significant increase in available funds.

Recommendation 99

For the Ministry of Physical Planning, Construction and State Assets and the Office for Human Rights and Rights of National Minorities, to: provide sufficient funds within the framework of annual programmes for improving the living conditions of the Roma national minority

Recommendation 100

For the City of Zagreb, to: come up with a long-term housing solution for Roma families from Struge, in line with the needs of the families

In 2022, we continued monitoring housing problems of some 40 Roma, more than half of them children, who lived in a locality full of garbage and rats in Struge in Zagreb, in inadequate facilities, without electricity and with water access only at one pump. As their eviction from land owned by INA was announced since 2021, the City of Zagreb temporarily placed most of them in the Red Cross Zagreb shelter in Kosnica in August, and a smaller part in Arena Hostel, while some found accommodation on their own. In this way, the possible separation of families due to eviction was prevented, because these were people who could not obtain adequate housing on their own and, despite meeting the property criteria, due to administrative obstacles, including the interpretation of long-term residence conditions, could not

compete for renting city apartments. Their accommodation in Kosnica and Arena was welcome, but it is a temporary solution and the City of Zagreb needs to come up with a long-term solution that will meet the individual needs of the families.

During the summer, we also visited Vrtni put in Zagreb, where about 60 people, including some 40 children, live in inadequate conditions. Over the years, the city has invested in equipping the location, but without a plan and insufficiently. We recommended minor interventions to the City in order to improve living conditions at the location, such as removal of accumulated garbage, installation of another water pump, etc., but even after repeated inquiries, we did not receive confirmation that this was done. Given that the residents of Vrtni put need to be provided with adequate living conditions, we will continue to monitor the actions of the City, which should be defined in the Action Plan of the City of Zagreb for 2023-2025 for the implementation of the NPRI, which is in the drafting phase.

During the summer, Roma families comprising some 30 people including children, were evicted from the location of Nova Krasa in Novi Vinodolski, whose inadequate housing conditions and the need to be given more appropriate accommodation we have been pointing out for years. Despite recommendations to find suitable accommodation for them, the utility company owned by Novi Vinodolski and Crikvenica and the Vinodolski municipality initiated the enforcement procedure in 2020 to evict families who have been staying there for decades. At the end of June 2022, the families were evicted with the involvement of police officers including the emergency police, so in the hottest time of the year, in which multi-year temperature records were broken, they found themselves without personal belongings in the open air on a football field near the location where they lived. The dwellings they lived in were demolished immediately after their eviction and the Ombudswoman tried to coordinate and mediate among local, regional and state authorities in order to find them the necessary accommodation, but also to ensure a long-term solution, in which the representative of Roma national minority and the Kali Sara Romani Union also actively participated.

This case demonstrated the vagueness of the provisions of Article 291, paragraph 3 of the SWA, which stipulates that in crisis situations, when a family with minor children is left without their home and is unable to provide housing on their own, the LRGUs are obliged to provide them with housing in a social apartment or in another way, to prevent the separation of children from adult family members. The situation in Novi Vinodolski has shown that the shared responsibility between the county and the local unit regarding the obligation to provide replacement accommodation is not adequate, which we further discuss in the section on the right to adequate housing. Given that Novi Vinodolski did not have accommodation units in its area, in order to find available apartments in the area of Novi Vinodolski or PGKC, we turned to the MPPCSA. Although the MPPCSA offered state apartments in the area of the City of Rijeka in a short period of time, the PGKC and the Town of Novi Vinodolski did not adequately fulfil their obligations prescribed by the SWA. Namely, we recommended the PGKC to submit a request as soon as possible for the disposal of state-owned flats in the area of the City of Rijeka in order to provide housing for these families, which PGKC refused to do. According to the available information, the Town of Novi Vinodolski concluded agreements with families from Nova Krasa on the basis of which funds were paid to them for renting real estate for housing, but according to the evicted persons, the Town set the condition that the rented flats are located outside of Novi Vinodolski.

The Serbs

According to the 2021 Population census, 123,892 citizens declared themselves as Serbs, i.e., 3.2% of the total population. Some media welcomed the significant decrease in the number of this national minority members as positive news, which indicates that there are still prejudices against Serbs in part of society.

A survey conducted in 2022 among young people born from 1992 to 2004 showed that 55% of them would have the Cyrillic alphabet banned by law in Vukovar. Intolerance towards Serbs is also reflected on social networks, and in 2022, an employment ad in which the owner of a catering business stated that he does not accept "Pakistanis, Bangladeshi and Chetniks from Nis" stood out. We reacted publicly by pointing out that choosing workers based on skin colour and ethnicity is illegal, given that the prohibition of discrimination, contrary to common misconceptions, also applies to owners of trades, companies and other activities, and that it is illegal to choose clients and employees based on skin colour, ethnic or national origin or another characteristic covered by the ADA.

We intervened on the plaintiff's side in the civil proceedings in which a primary school, as the defendant, has to prove that the plaintiff was not discriminated against because of her Serbian origin when she was employed temporarily for years in a row as a so-called replacement, and when the possibility of indefinite employment was opened, priority would be given to candidates who are not of Serbian origin.

The electrical grid still continues to be repaired and restored in the areas inhabited by the Serbian returnee population, which were left without electricity during and after the Homeland War. However, more than 1,000 households still remain to be re-electrified, i.e. the connections to the grid that previously existed need to be restored, mostly in sparsely populated and dislocated settlements in areas once affected by the war.. Due to limited resources, as well as the complex and long-term resolution of property-legal relations, only about 80 households connect to the grid each year. The NGOs state that the owners of renovated houses are unreasonably asked to pay for the reconnection. Thus, we intervened in a case in which the owner paid the requested sum, and only after our intervention the collected amount was returned to him.

Recommendation 101

For the Ministry of Finance, to: submit instructions to the tax administrations on the exemption of former holders of occupancy rights from the obligation to pay real estate sales tax when purchasing an apartment in which they are provided with housing

The Serb National Council (SNC) also informed us about the illegal behaviour of employees of certain tax administrations, who often oblige former holders of tenancy rights, mostly Serbs, to pay real estate sales tax when buying apartments in which they are provided with housing, although they are exempt from this obligation according to Art. 13, item 5 of the Real Estate Transfer Tax Act. Therefore, we recommend the Ministry of Finance to provide appropriate instructions to the tax authorities on the application of this regulation to former holders of occupancy rights, in order to avoid illegal tax collection in the future.

The CSORHC continued with the previously mentioned practice of conducting frequent field checks of former holders of occupancy rights and the way they used the flats in which they were provided with housing, and NGOs continue to indicate that these checks are in disparity with the checks of other users of housing. Since the CSORHC could not tell us how many of the 2,925 field inspections of the use of flats in 2022 related to former holders of occupancy rights, and how many to other users, we repeat the recommendation to start keeping records that will enable the disclosure of such data. This is especially important because field checks and the procedures related to the termination of lease agreements can have far-reaching consequences on the human rights of the former holders of the occupancy right, as was shown in the case of a former holder of the occupancy right from Sisak, whose lease agreement was cancelled after the field checks of the CSORHC, his residence de-registrated and his identity card confiscated.. In connection with this, CRP Sisak initiated an administrative dispute, and

the Constitutional Court unanimously concluded by Decision U-III-1265/2020 of 12 July 2022 that this former tenant's right to freedom of movement and choice of residence guaranteed by Article 31, paragraph 1 of the Constitution of the RC and Article 2, paragraph 1 of Procedure no. 4 of the ECHR was violated.

The migrants

The Republic of Croatia does not have a migration policy or strategy, but its preparation is being announced. Simultaneously, the Action plan for the integration of persons under international protection was not adopted in 2022 either, although the previous one expired in 2019. Although the working group for integration made a proposal for a new Action Plan in July 2021, by the time this Report was prepared, it had not yet been sent for consultations with the interested public.

Therefore, we recommend drafting an interdisciplinary migration policy as soon as possible, with the inclusion of representatives of migrant communities in the RC, as well as adoption of the Action plan for the integration of of the persons under international protection.

The City of Zagreb is a positive example. It adopted the Action Plan for the Integration of International Protection Seekers and Persons under International Protection for 2022 in January 2022, thus becoming the first LRGUs to adopt such a document.

In 2022, EU member states activated the Temporary Protection Directive for the first time, which enables the EU to collectively apply a time-limited protection system to a pre-determined group of refugees in a mass arrival, in this particular case to people coming from Ukraine – to citizens, stateless persons or third-country nationals, who legally resided or exercised the right to international protection in Ukraine, which we further discuss in the chapter on persons displaced from Ukraine. Simultaneously, it revealed a significantly different response of the EU to arrival of displaced persons from Ukraine compared to the arrival of refugees from Syria, Afghanistan and other countries caught in conflicts in 2015. Namely, even though many indicated at the time that it would be important to activate this Directive, it was not done.

Recommendation 102

For the Government of the Republic of Croatia, to: adopt the migration policy as soon as possible, as well as to adopt the Action Plan for the integration of persons under international protection

Recommendation 103

For the Ministry of the Interior and the Ministry of Science and Education, to: urgently organise customised Croatian language courses at B1 and B2 levels for persons under international protection

We discuss the reception of people displaced from Ukraine in a separate chapter, but we state at this point that CSOs state that there are differences in access to rights for people displaced from Ukraine and for other refugees, i.e., persons under international protection. Thus, they point out the differences in conducting preparatory classes of the Croatian language for children under international protection, for which the approval of the MSE must be obtained in advance, which sometimes takes months, compared to the preparatory classes of the Croatian language for children displaced from Ukraine, which are organized within a few days.

Considering the importance of language learning for integration, failure to provide sufficient opportunities to learn Croatian language for migrants is one of the major obstacles to successful

integration into Croatian society. In 2022, the MI terminated the contract with the MSE, financed through the Asylum, Migration and Integration Fund, under which the Croatian language course was organised. According to the MI, the contract was terminated because the MSE used it contrary to the principles of good financial management and the rules of the profession. Additionally, Croatian language courses, when conducted, are organised only at the A1 and A2 level, while the B2 level is required for performing jobs and obtaining citizenship. Therefore, we recommend the MI and the MSE to find a way to finance and implement customised B-level Croatian language courses for persons under international protection as soon as possible.

Furthermore, Article 70 of the International and Temporary Protection Act stipulates that persons under international protection have the right to primary, secondary and higher education under the same conditions as Croatian citizens. However, this is difficult to implement in higher education because persons under international protection are expected to apply for studies like any other foreigner, without taking into account their status and the special circumstances they are in. Besides, it is especially difficult for them to enrol in studies that do not have a foreigners quota.

The CSOs also indicate obstacles in the banking system, i.e., discriminatory practices towards applicants and persons under international protection in various types of banking operations (account opening, payments, etc.), because they are recognised exclusively as citizens of third countries. Because of this, their access to services is restricted, that is, documentation such as information on a permanent address in the country of origin or a valid passport of their country of origin, which they do not possess, are required. Although some progress has been achieved based on our actions and several largest banks enable identification based on residence permits and identity cards of applicants for international protection, these people still sometimes have difficulties opening bank accounts and obtaining other banking services, which we will continue to work on.

The number of foreign workers employed to compensate for the lack of labour force in the RC is increasing. Thus, in 2022, more than 125,000 work permits were issued to foreign workers, many of whom are from distant countries, which we further discuss in the chapter on the right to work. However, public policies aimed at their integration into society are missing, and the public authority that should coordinate these activities has not been determined. There is a lack of Croatian language courses, as well as information on available ways to protect their rights, both related to work and in other areas. Many are often noticeably different looking, so it is to be expected that they are more often exposed to prejudice and discrimination, which is why it is necessary to empower them.

Recommendation 104

For the Office for Human Rights and Rights of National Minorities, to: make information on rights in different systems available to foreign workers in several languages through its website and in printed form (brochures and leaflets)

Although we do not have a large number of complaints about discrimination against foreign workers for now, our 2022 Survey on attitudes and level of awareness of discrimination and manifest forms of discrimination indicates that over 50% of respondents think that discrimination in the RC is most widespread precisely in the field of work and employment, and the skin colour or race is considered one of the most widespread discrimination grounds with 21.8% of the respondents citing it as the most common.

Thus, it is necessary to pay additional attention to preventing the racial or ethnic discrimination against foreign workers, especially since they may be exposed to discrimination based on language, ethnicity and financial status.

During 2022, CSOs informed us about several cases in which there is suspicion of discriminatory treatment of migrants in public bus and rail transport, i.e., racial profiling by the police. The investigation procedures are still ongoing.

Citizens and CSOs pointed out that during the summer of 2022, the movement of migrants through the territory of the RC became increasingly visible, and their presence in public spaces increased. They mostly gathered at the railway and bus stations in Zagreb and Rijeka and around Pazin, Buje and other Istrian towns near the state border. Thus, the Town of Pazin stated that in September 2022 it became one of the points on the route of a large number of migrants trying to reach Slovenia and Italy. Although they were in transit, some of them stayed overnight in the city centre, sleeping in public areas or in empty buildings. The city pointed out the discomfort of some residents of Pazin, who did not feel safe in the places where they usually walk, have fun, play, etc. Therefore, the police carried out increased surveillance in agreement with the city and the mayor publicly called on the residents to be patient, careful, but also understanding. Nevertheless, no measures were taken to make the migrants' stay in Pazin, no matter how short, easier.

Encouraged by a group of self-organized citizens, the City of Rijeka reacted differently and started cooperation with local stakeholders in order to set up a humanitarian point near the railway station where a cooked meal could be eaten and hygiene needs could be taken care of. The City of Zagreb acted similarly, also setting up a point near the railway station. These are examples of good practice, but still insufficient for people who needed a location where they could stay for several days, so that they would not have to sleep in abandoned and dangerous places.

2.18. Rights of displaced persons from Ukraine

With the beginning of the war in Ukraine on 24 February 2022, the Government of the RC began immediate preparations with the aim of ensuring the acceptance of people fleeing the war and set up an Interdepartmental Working Group established to implement the activities aimed at providing humanitarian assistance, reception and urgent and appropriate care for the refugees from Ukraine, which we welcomed. Citizens of the RC also expressed their willingness to help.

Based on our previous actions under similar crisis circumstances, we urgently submitted recommendations to the Government of the RC related to the organisation of support to the displaced population with the aim of protecting human rights, such as establishing comprehensive records, identifying and providing additional support to particularly vulnerable groups, establishing a central contact point for coordinating information on displaced persons and for them, as well as central points of coordination of organisations and individuals that provide assistance and support to displaced persons. The vast majority of these recommendations were implemented, but it was necessary to invest additional efforts in relation to some, especially those related to the coordination of associations and citizen organisations that support displaced persons from Ukraine and providing information about these activities to displaced persons, who are mostly placed in private accommodation. We also pointed out that it is necessary to develop plans for long-term and adequate accommodation and housing, sustainable and regular distribution of humanitarian aid, inclusion of children in the education system, provision of primary healthcare and effective psychosocial protection and assistance, as well as inclusion in the labour market. We also regularly participated in the meetings of the Operational Group of the Ministry of the Internal Affairs and the Civil Service Directorate with representatives of civil society organisations, international organisations and representatives of public institutions and Ukrainian associations, which have become more seldom over time, and we used the opportunity to exchange information and point out difficulties.

Faced with a situation characterised by a mass influx of displaced persons from Ukraine who cannot return to their country or region of origin due to Russian military aggression, the Council of the EU adopted Implementing Decision 2022/382 on 4 March 2022, which in terms of Article 5 of the Directive 2001/55/EC has the effect of introducing temporary protection for these persons (hereinafter: Implementing decision on temporary protection). Therefore, in accordance with Article 78, paragraph 4 of the International and Temporary Protection Act (OG 70/15, 127/17, hereinafter ITPA), the Government of the RC introduced this institute in the RC at its session on 7 March 2022 by adopting the Decision on the Introduction of Temporary Protection in the Republic of Croatia for displaced persons from Ukraine (hereinafter: the Decision of the Government of the RC on the introduction of temporary protection).

Given that Croatian legislation in the field of healthcare and social care was not harmonised with the Implementing decision on temporary protection, and the level of rights in education was lower than the one for persons under international protection, we proposed equalising the rights in these areas, which was accepted in the areas of health and social welfare by amendments to the Act on Compulsory Health Insurance and Healthcare for Foreigners in the Republic of Croatia, which entered into force on 15 April 2022, but not in the area of education (the ITPA stipulates the right to primary and secondary education, not to higher education).

In addition, we warned the Ministry of the Interior concerning the worrisome occurrences of possible abuses of the extremely vulnerable position of displaced persons from the Republic of Ukraine, which potentially includes the commission of the criminal offence of human trafficking, which represents a violation of numerous human rights. In this sense, the Council of Europe's Group of Experts on Action Against Trafficking in Human Beings (GRETA) asked the member states to act urgently in order to strengthen coordination at border crossings and places designated for the reception of displaced persons and to ensure their registration and access to the necessary documentation, residence permits and basic services. At the same time, they warned about the vulnerability of these groups, especially women, children and unaccompanied children. Therefore, we pointed out the need for more intensive work by the Ministry to prevent possible abuses of the position of displaced persons, especially considering the high share of women and children and the fact that the majority of displaced persons are located in private accommodation. In response to our inquiry about whether checks are carried out on private accommodation providers, we were informed that they are being carried out for people who provide accommodation based on the Government’s Decision on financing costs for housing for displaced persons from Ukraine in individual accommodation from 23 March 2022, but we do not know whether checks are also carried out on persons offering accommodation via social networks.

We would like to point out that based on the data collected so far, we have observed that there are certain difficulties and ambiguities in exercising the rights of displaced persons within the healthcare and social welfare systems, and better coordination of stakeholders at all levels is needed so that displaced persons would have timely information and appropriate access to rights. It is also necessary to further harmonise the regulations. In particular, although the ITPA is in the process of being amended, our recommendations have not been accepted so far, including the one that persons under temporary protection should have the same right to higher education as Croatian citizens. We also consider it necessary to amend the provisions of the ITPA that stipulate that a foreigner should be provided with adequate accommodation during the temporary protection if they do not have their own funds, in order to clearly prescribe the amount of these funds, as well as the amount of permanent monthly income, e.g., pension. We made these and other comments within the scope of the public consultations process.

Considering the problems that have so far appeared in practice related to the inclusion of persons under international protection, we believe that it will be necessary to provide a greater number of translators, organise Croatian language courses and better inform service providers about the scope of rights that persons under temporary protection have (e.g., healthcare workers).

At the end of the year, we also received complaints from two groups of persons under temporary protection who were placed in collective accommodation in one location upon arriving in the RC, where they had already integrated into the local environment, after which they were informed that they had to move to other LGUs. Part of their dissatisfaction stemmed from untimely and incomplete information about the new locations, and since the relocation was announced for January 2023, we will continue to monitor it.

Displaced persons from Ukraine also complained to us that they could not obtain temporary protection, so we asked the MI to clarify which persons this right applies to. The decision of the Government of the RC on the introduction of temporary protection provides that temporary protection will be granted to citizens of Ukraine, their family members, as well as some categories of citizens of third countries and stateless persons who left Ukraine on 24 February 2022. Temporary protection can also be granted to citizens of Ukraine and their family members if they left Ukraine immediately before that date, but it is necessary that it was for security reasons and that they cannot return to Ukraine due to the armed conflict. The MI points out that in the context of the RC, the expression "immediately before 24 February" refers to the time period from 1 January 2022. This exempts persons who left Ukraine earlier than 24 February 2022, e.g., for work, study vacation, visiting family, medical or, other reasons,
regardless of the fact that they cannot return to Ukraine due to the armed conflict. Although the Implementing decision on temporary protection does not state that these persons have the right to temporary protection, in its operational guidelines[xvi] the EC strongly encourages member states to consider extending temporary protection to the category of persons who fled Ukraine immediately before 24 February 2022 because tensions increased or who were in the territory of the Union or another third country (e.g., on vacation or for business or family reasons) immediately before that date and cannot return to Ukraine due to the armed conflict. It is further stated that due to the current situation, these persons will in no case be able to return to Ukraine as their country of origin or the country to which they fled. The alternative is to give them immediate access to asylum procedures and to give them priority because these people need immediate protection just like the Ukrainians who have been fleeing the country from 24 February 2022. It is also stated that the approval of temporary protection would also be favourable for the member states, considering that the procedure is simple and it would further reduce the risk of overloading the asylum system. Therefore, in accordance with the operational guidelines of the EC, Article 7, paragraph 1 of the Directive 2001/55/EC and Article 2, paragraph 3 of the Implementing decision on temporary protection, we propose to extend temporary protection to the persons who left Ukraine before 24 February 2022 and who cannot return to Ukraine due to armed conflict, regardless of the reasons for leaving.

Recommendation 105

For the Ministry of Interior, to: extend temporary protection to persons who left Ukraine before 24 February 2022 and who cannot return to Ukraine due to armed conflict, regardless of the reasons for leaving Ukraine

2.19. Discrimination on the grounds of religion and the freedom of religion

Protection and promotion of freedom of religion operates through three aspects: protection of freedom of religion; prohibition of discrimination on grounds of religion and protection of equality irrespective of religion; and, finally, protection of individuals who are threatened on grounds of their own religion or someone else's. With respect to the latter, it should be noted that freedom of religion must not be used to restrict other freedoms and rights, and no one can use their own freedom of religion to justify restriction on the freedoms and rights of other persons. As discrimination on grounds of religion is closely associated with freedom of religion as a fundamental human right and the challenges the citizens encounter, in which religious communities play an important role too, freedom of religion and prohibition of discrimination on grounds of religion or belief will be discussed in a single chapter in this Report.

As it had been the case in previous years, the Ombudswoman received a minor number of complaints and inquiries dealing with protection from discrimination on grounds of religion and freedom of religion, but the complaints and inquiries we did receive illustrate the variety of challenges our citizens have encountered. Data gathered from religious communities and the media, as well as data requested from competent authorities in individual cases, mostly the MI, served as an important source of information about the state of religious freedoms and tolerance of religious diversities.

Lack of tolerance and respect for diversity was again evident in the public discourse in Croatia in 2022, especially on social networks, but also in the media. Unfortunately, public speech often featured a rhetoric that lacked even the minimum of respect, but there were also more severe forms of unacceptable speech that fall within the category of misdemeanours or criminal offences.

This was the problem that was most often underscored by the religious communities themselves, including minority communities and the majority Catholic community, in their replies to our question whether they have observed any violations of the right to religion or any religious discrimination in 2022, and if so, which violations they have observed.

This year, the Croatian Bishops' Conference again drew our attention to the presence of speech they have described as unacceptable and offensive, and to unacceptable media coverage of religion.

The Islamic community informed us that they have no record of their members reporting discrimination or offences against their religious sentiments, but they drew our attention to inappropriate and offensive mentions of Islamic religious values and symbols, and instances of certain high-ranking government officials questioning international tribunal verdicts regarding genocide committed over the Muslim people. The Islamic community feels that the described behaviour was inappropriate, and rightfully points out that such statements can contribute to discriminatory actions and to deterioration of good relations.

The Jewish Community in Rijeka drew our attention to an inappropriate comment directed at Jews that was posted on their Facebook page, commenting on the news about three "stumbling blocks" that had been laid in honour of Holocaust victims. The Community filed criminal charges in this case.

The Croatian Bahá'í community informed us about instances of members of certain religious communities not being allowed to miss classes at the university for religious holidays. Some students (of Bahá'í, Orthodox and Muslim faith) were formally allowed to miss classes in 2019, but a note was added stating that there could be consequences for them, and they decided not to exercise this right for fear of these consequences.

Even though the Ombudswoman receives few complaints about this topic, we opened cases on our own initiative based on media reports. For instance, we opened a case following media reports about an attack on a Catholic priest who was assaulted verbally and later also physically in the street while making his way to a mass held in honour of the 62nd anniversary of the death of blessed Alojzije Stepinac. Since the media reports indicated that the attack was motivated by hatred, and that criminal charges were filed to the State Attorney's Office, we requested information about the actions taken in connection with this incident.

The media also reported about the vandalization of buildings belonging to the Catholic Church in Zagreb and Šibenik. We requested information about any actions that might have been taken in connection with these incidents, as well as other actions taken by the police in connection with offences targeting religious buildings, from the MI.

We have also followed up on the actions taken by competent authorities in the case of the swastika that was drawn in front of a hotel in Trilj where Jewish children were staying. Someone had used spray paint to draw a swastika on the ground in front of the hotel where about sixty Jewish children from France were staying at the time. According to our information, criminal investigation is in progress.

A charity association with a religious background was prohibited from operating in primary schools in Sisak in 2022. Given "the secular character of schools", Sisak town authorities only allowed the local Red Cross society to collect humanitarian aid in schools. This case attracted public interest, and we received a complaint against this decision taken by the town authorities, drawing our attention to discrimination on grounds of religion and education, and to the right to education of children attending Catholic religious classes. We forwarded this complaint to the Ombudswoman for Children, who is the competent authority to act in this case, pointing out that freedom of religion of the persons involved must be respected in all religious activities undertaken in public institutions, including humanitarian activities, and that this requirement extends to persons of different religion and persons who do not identify with any religion.

We continued to receive inquiries from citizens in 2022 that dealt with "leaving" the Catholic Church and the unclear procedure and different practices of noting this in church records. These inquires involve persons who have been christened, but they are not practicing Catholics and they do not wish to be registered as Catholics. It would be useful to have the Croatian Bishops' Conference, taking into account the provisions of canon law, explain the procedure of "erasure" and the opportunities available to the citizens in this respect so that they could choose their religion freely, and leave it if they so desire.

Even though the available data do not point to systematic violation of religious rights or systematic discrimination on grounds of religion in Croatia, the issue of persecution of Christians in some African and Asian countries was discussed at the round table "Persecuted and forgotten?", held at the Croatian Parliament in honour of "Red Wednesday". Examples of assistance provided in this regard include scholarships for young Christians from developing countries in the Middle East, Asia and Africa for undergraduate and graduate university studies, provided by the MSE, and the MFEA.

Finally, as may be concluded from the above, as far as religion in Croatia is concerned, the presence of inappropriate speech and even hate speech regarding religion is a particular problem. Inappropriate speech and discrimination can be supressed through dialogue and respect. For this reason, it is important to promote positive examples of statements about religious values, while drawing attention

to tolerance and acceptance of diversities. In this respect, we would like to underline the activity of the Association for Freedom of Religion (Udruga za vjersku slobodu), an organisation consisting of religious believers, priests and officials of various religious communities, persons who are not affiliated with any religious community and atheists, which aims to protect, expand and add value to the freedom of religion of individuals and religious communities, and to promote the right to freedom of conscience and religion.

2.20. Justice system

This chapter provides an overview of the actions taken in connection with citizens' complaints that concerned the activity of the justice system, actions in connection with enforcements, and the functioning of the concept of bankruptcy and free legal aid. In addition, it provides an overview of the case law related to discrimination and the incidence of hate crimes, as well as the victim and witness support system. Finally, in accordance with the new practice we introduced in our 2021 Report, we provide an overview of the actions taken by the ECtHR in cases concerning Croatia.

The implementation of the judiciary reform in Croatia continued in 2022, with amendments to a number of laws entering into force in order to make the justice system more efficient. Even though a comprehensive overhaul of the Enforcements Act had been planned, no significant amendments have been adopted, and the work on the adoption of a new act has not started. Over-indebted citizens have shown little interest in the implementation of proceedings provided by the Consumer Bankruptcy Act, which continues to show that they do not see these proceedings as an opportunity to resolve their situation and have "a fresh start".

Frequent inquiries we have received from citizens about available options for legal counselling and representation before courts and public authorities indicate that the citizens are insufficiently informed about the conditions and methods for accessing free legal aid. In some Croatian regions, citizens are having difficulties with recourse to attorneys providing free secondary legal aid. One important innovation is that the Croatian Government and the MJPA have launched activities to increase the budgetary funds available for free legal aid, and ensure a multiannual financing model for primary legal aid providers.

Even though certain progress has been made in developing a support system for victims and witnesses, Croatia needs to continue the work on meeting satisfactory support and protection standards, as defined by Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

The fact that the number of complaints filed by citizens to ombudsman institutions by far exceeds the number of civil proceedings instituted in discrimination cases indicates that the citizens are still reluctant to seek redress for discrimination before a court of law in civil proceedings, which have reached few decisions granting the claim.

According to the data provided by the MI, the number of registered hate crimes decreased in 2022. Comprehensive data, further analysis, and follow-up of these criminal offences will show if this is due to underreporting and/or failure to recognise hate crimes, or the number of hate crimes has really decreased.

Regarding the actions taken by the ECtHR in connection with RC, the number of applications increased by 27% in 2022. Violation of the right to a fair trial, enshrined in Article 6 of the ECHR, was most commonly found in judgments concerning Croatia.

2.20.1. Strengthening judicial efficiency

Efficient and independent judiciary is a key mechanism for ensuring rule of law as one of the topmost constitutional values in Croatia, which is fundamental to the functioning of the EU. Judicial reform is an important strategic objective for strengthening independent, unbiased, transparent and efficient judiciary. Its implementation encompasses, among other things, amendments to acts, investments in the infrastructure of courts and state attorney's offices, continued modernisation and use of information technologies, and development of human resources in the justice system. A number of reform measures were undertaken in 2022. Amendments to the Civil Procedure Act, the Criminal Procedure Act, the Bankruptcy Act, the Consumer Bankruptcy Act, the Land Registry Act, and the Notaries Act entered into force. Even though legislative activities are sometimes necessary, it should be kept in mind that frequent amendments, especially of key laws, can lead to difficulties in their monitoring and enforcement, and can make the citizens distrust the functionality of the amendments. The Enforcement Act is an example of an act whose frequent amendments caused confusion among citizens, which will be discussed in more detail in the chapter on enforcements and bankruptcies.

Ensuring the material conditions required for the functioning of courts and sufficient human resources is one of the prerequisites for attaining a higher standard of judicial authority.

Recommendation 106

For the Croatian Government to: amend the Regulation on Job Titles and Job Complexity Coefficients for Civil Servants to increase the coefficients for civil and public servants working at courts and state attorney's offices

Civil and public servants continued to leave jobs in judiciary in substantial numbers in 2022 because they were unhappy with their income in relation to their workload and responsibility, and there is a concern that this trend will continue. This is a serious problem in the daily functioning of the courts. In particular, we would like to draw attention to the problem of shortage of court stenographers, since the judges need their help to manage cases effectively, and the court stenographers, in addition to typing, perform other tasks relevant for the management of cases. The shortage of court stenographers and other staff who support the judges in their work can therefore be expected to negatively affect the functioning of the courts. This problem was underlined in the 2021 Report on the State of Judicial Authority, presented by the President of the Croatian Supreme Court.

Amendments to the Courts Act were adopted in 2022, under which appointed court expert witnesses are appointed and removed from office by the Minister of Justice rather than the Presidents of County Courts. The MJPA maintains a list of appointed court expert witnesses, who are under obligation to submit a log of their work to the Ministry. These amendments entered into force on 1 January 2023. Public consultations about the proposal for the Ordinance on Appointed Court Expert Witnesses, regulating the procedure of their appointment, their duties and salaries, were also opened in late 2022. Some members of the professional community voiced their displeasure with these innovations and with the low score assigned to their work, considering the required professional qualifications and the responsibility inherent in their job.

We are alarmed by the Croatian SJC's data indicating that 72 judges have been dismissed, of whom 49 have been dismissed at their own request, 19 have reached 70 years of age, and four have sadly passed away in 2022. The plan had been to fill 113 judge positions, but only 83 judges were appointed. The unfavourable working conditions that the judges face, including the negative public perception of their office and the income they receive in relation to the responsibilities inherent in their job, have caused people to lose interest in working in the justice system. Sufficiency and quality of capacities have to be

considered even in the education provided in faculties of law, and students should be informed about the importance of working in the justice system, and its significance for the society in general.

Eurobarometer data also point to a negative perception of the justice system in the public: in 2022, 53% EU citizens versus only 15% Croatian citizens described the independence of courts and judges as "good". Also, as many as 75% Croatian citizens described the independence of courts and judges as "bad" or "very bad". 65% respondents feel that the lack of independence in the justice system is caused by the interference of politicians and the pressure they exert on the judicial authority. 61% believe that the interference or pressure is motivated by economic or other particular interests, and 51% believe that the status and position of judges does not provide a sufficient guarantee of their independence.

Regular communication with the public about positive changes in the justice system, such as random allocation of cases, reduction of costs by introducing e-communication, and the objectively high number of solved cases would help reduce the negative perception. Judges have also pointed out that the media have been known to present inaccurate and unverified information about the functioning of courts, which could be prevented by improving the professional relationship between the justice system and the media. Even though press releases issued by courts are a useful way of informing the public about topics of public interest, more intensive communication between court spokespersons and the media would help expediently communicate verified and complete

Recommendation 107 (reiterated)

For the Justice Academy to: design and implement trainings for media editors and journalists about the coverage of the justice system in cooperation with representatives of the media

Information to the public. Systematic education of the media would help improve their coverage of topics related to the justice system and consequently also the understanding of the functioning of the courts, as we have pointed out before.

Better communication with the participants of the proceedings in progress before the courts also contributes to better perception of the justice system.

The MJPA has reported that special efforts have been invested in improving and simplifying the communication with the citizens. On 3 January 2023, the e-Communication (e-Komunikacija) system that has been introduced at administrative courts, the High Criminal Court, the Municipal Criminal Court in Zagreb, and the criminal departments of courts had 76,133 registered users.

Planned publication of all court decisions will also definitely contribute to greater transparency of the activities in the justice system, but also to the harmonization of the case law. Further upgrade of the e-Communication system and the development of an IT solution for automatic anonymization, publication and search of court decisions on a publicly available portal is planned through the project Improvement of the Court Case Management System (e-Case File or e-Spis).

The introduction of audio recording to the courtrooms is also planned, which should facilitate the recording of the actual course of the proceedings. The upgrade of the one-stop-shop system (OSS) has simplified access to information about cadastral plot or land registry sheet numbers based on the address of the plot or its spatial location in a graphic browser. A mobile app that allows for the tracking of real property annotations was also implemented through the my real property (Moje nekretnine) system.

2.20.2. Complaints about the functioning of the justice system

The Ombudswoman does not initiate proceedings in connection with open court cases, except in the event of unnecessary delay of court proceedings or manifest abuse of power, in which case the Ombudswoman can request a statement from the president of the court handling the proceedings. However, the complaints regarding the justice system that have been received by the Ombudswoman, including the complaints we do not have the power to pursue, are indicative of how the right of access to justice as a fundamental human right is exercised. These complaints therefore provide us with information about the challenges the citizens have faced in seeking judicial redress for their rights, about their awareness of the redress available to them, and about the areas that should be more clearly or differently regulated by law.

We received 280 complaints relating to the justice system in 2022, including enforcements, which were the subject of 51 complaints.

Out of the total number, 118 complaints concerned the functioning of courts, which is 10.28% more than in 2021. Most complaints (56) dealt with unnecessary delay of court proceedings, 40 dealt with dissatisfaction with the court decisions, 19 dealt with abuse of power, and three dealt with the performance of the judicial administration's tasks.

The complaints about unnecessary delays concerned labour, enforcement, inheritance, land registry, and criminal proceedings, as well as proceedings to establish matrimonial acquest. In one case, the preliminary hearing was not scheduled for two years. In another, an appeal was not delivered to the second-instance court for five years. In one case, inheritance proceedings lasted for ten years. In another, the payment of an amount from the court deposit was delayed.

We were also contacted by citizens who were unhappy with the court decisions, and sought legal assistance in connection with the review of final decisions, refusal of requests for the recusal of a judge, failure to receive compensation of damages for "unfair trial", review of witness summons that were issued under threat that they may be brought in by force, and similar matters. In connection with this, we informed the citizens about the constitutional principle of autonomy and independence of courts in their actions and in the adoption of substantive and procedural decisions, and drew their attention to regular and extraordinary redress available to them. We also received complaints dealing with infringement of property affairs of owners of real estate properties in cadastral municipalities whose land registers have not been updated, of which we informed the Ministry of Justice and Public Administration.

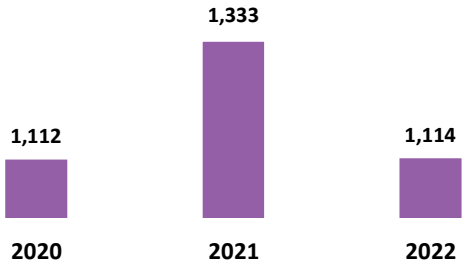
One citizen sought our help because, due to an identity error, he was declared the bequeather in inheritance proceedings, and the deed of certification of succession awarded his real estate properties to the legal heirs of a person who shared his name. After he requested the rectification of this error, the court instructed him to institute a litigation or a land registration procedure, because the heirs provided no statements regarding his allegations. Since this was a person of disadvantageous material status and poor health, we informed him about the possibility of seeking free legal aid in order to protect his rights with the help of an attorney.

According to the Croatian SJC's data, 22 disciplinary procedures were initiated against judges in 2022, resulting in nine reprimands, two fines, and one conditional and four unconditional removals from office. The remaining procedures were terminated, or the judges were acquitted. Most of the disciplinary proceedings dealt with misconduct in office, and in three cases, court presidents requested the removal of judges from office. Furthermore, the SJC was asked to approve requests to institute

criminal proceedings against judges in 57 cases. Deprivation of liberty, detention and pre-trial detention was approved in one case. The requests were refused in 45 cases, and the proceedings are still ongoing in the remaining cases.

The judicial inspection with the MJPA handled 1,114 petitions and complaints submitted by the citizens in 2022. Out of this number, 850 were new cases, 239 were repeated or amended, nine were declared inadmissible, and 16 involved criminal charges that were forwarded to the SAO. 1,031 cases were resolved. Most of the petitions (745) concerned the functioning of courts, and mostly dealt with dissatisfaction with the substance of the decisions, delays in proceedings, or inappropriate conduct of a judge or court employee. Given that 1,112 petitions dealing with the functioning of courts had been received in 2020, and 1,333 had been received in 2021, it follows that the number of petitions in 2022 declined compared to the year before.

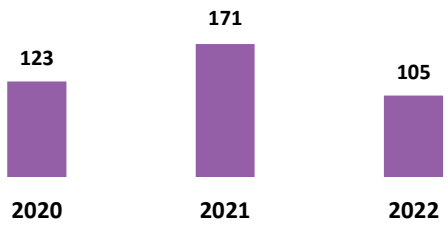
TOTAL NUMBER OF PETITIONS SUBMITTED TO THE JUDICIAL INSPECTION



We received 39 complaints dealing with the activities of the State Attorney's Office in 2022, their number having decreased by 41.79% compared to 2021. The majority of the complainants voiced their dissatisfaction with the decisions taken by the State Attorney's Office in connection with criminal charges. A substantial number of complaints also dealt with inadequate management of cases, delays in proceedings, handling of petitions about the activities of the State Attorney's Office, lack of reply, unavailability of case documentation, and alleged unjustified legal prosecution. We also received inquiries about the rights of the victims of criminal offences, and the citizens also sent us criminal charges, whether they wanted us to institute proceedings or take note, and we referred them to the competent state attorney's office in all those cases.

In 2022, the judicial inspection received 105 complaints concerning the activities of the State Attorney's Office. A report was requested from the Chief State Attorney in 55 of these cases, and in the remaining 50 the complainants were voicing their dissatisfaction with decisions taken by the State Attorney's Office. Given that 123 complaints were received in connection with the activities of the State Attorney's Office in 2020, and 171 were received in 2021, it follows that the number of petitions in 2022 declined in this respect as well. There were also 15 complaints against the activities of notaries, which is fewer than in 2021. They resulted in two direct inspections, of which irregularities in the work of a notary were found in one. Three complaints were also received about the activities of attorneys.

Number of complaints submitted to the judicial inspection regarding the State Attorney's Office



We received 13 complaints dealing with the activities of attorneys and the CBA, which was six more than in 2021. The complaints concerned long-lasting disciplinary proceedings, misconduct in office, unprofessional conduct, failure to act in accordance with a granted power of attorney, and other matters. The CBA's disciplinary committee received 954 disciplinary reports in 2022, 50.24% more than in 2021, which indicates that citizens are for the most part aware of the CBA's competence in cases dealing with disciplinary liability of attorneys. Disciplinary action was taken in 742 cases, 160 reports were dismissed, and the proceedings are in progress in the other cases. Serious breach of duty and reputation of the attorney profession was found in 69 decisions. Fines were issued in 41 cases, reprimands were issued in 19, and in nine cases the Association took away the attorney's right to practice their profession as a form of disciplinary action.

In 2022, were received three complaints dealing with the activities of notaries, while the CNCh received 43, which shows that the citizens are aware of the Chamber's competences. Most complaints (20) dealt with inheritance cases, while 11 cases dealt with enforcement cases, in which notaries act as court trustees. Acting on the complaints received from citizens, the CNCh found no grounds for disciplinary action in 2022, but the decisions are still pending in ten cases. The number of complaints has declined compared to 2021, when 57 complaints were received.

2.20.3. Enforcement and bankruptcy

The citizens who sought our help in connection with enforcement and bankruptcy drew our attention to their difficult socioeconomic situation, and to the problems in the implementation of the regulations in these areas of law.

Enforcement

We received 51 complaints in 2022, 35% fewer than in 2021. We were contacted both by parties seeking enforcement and parties subject to enforcement, as well as the employees of the latter, in connection with the challenges in the implementation of enforcement.

The citizens' complaints dealt with their dissatisfaction with court decisions, the statute of limitations period or the double recovery of claims, their inability to repay their debt and their difficult socioeconomic situation, their lack of understanding of the relevant regulations, and their need for legal assistance. Persons subject to enforcement who are facing eviction and have no other place to stay are in a particularly difficult position. We informed them about the possibility of exercising the right to a housing allowance. According to the MLPSFSP, 14 persons who were subject to enforcement

exercised this right in 2021, while the data for 2022 were not yet available at the time of the writing of this Report. Persons subject to enforcement also contacted us about third parties acting in place of parties seeking enforcement, usually agencies that purchase and collect debts, complaining of inappropriate communication, absence of agreement on debt repayment, denial of information, and fear that the debt recovered from them had been unjustifiably increased.

Since we do not have the power to represent people and provide legal advice, we informed the citizens about the redress available to them, and about the legal option of exercising their right to free legal aid.

"These persons subject to enforcement and the third person are still obstructing the implementation of this enforcement, and the Court is not taking the action it is legally obligated to take. Such conduct of the Court, given the duration of the proceedings, infringes on all my human rights that are guaranteed by the Constitution, including the right to a home. The Court has not enforced the decision ordering it to end the enforcement proceedings, not even 10 years after its adoption, and 14 years after the enforcement proceedings were instituted."

A person seeking enforcement complained to us about an unnecessary delay in the proceedings. She initiated the proceedings in 2008 pursuant to a final decision regarding an act of trespassing, committed in 2006, since when she has been unable to use her real property. Even though she had obtained decisions regarding her request for the protection of her right to a trial within a reasonable time on two occasions, the decision was not issued within the defined timeframes, and our proceedings related to this complaint are still in progress.

Employers have also drawn our attention to difficulties in carrying out enforcement in respect of employee's salaries, especially when requested by debt collection companies. We informed the MJPA about the problems that have been identified in this regard, since amendments to the Enforcement Act that were supposed to deal with lifting the administrative burden for employers and the CPII in carrying out extrajudicial enforcements were planned in 2022. However, the Enforcement Act was eventually only amended so as to make the necessary adjustments required by the introduction of the euro as the official currency in Croatia. Even though they had been originally proposed, the amendments that would free the employers and the CPII of the duty to carry out enforcements in respect to salaries and pensions were not adopted, and neither was the introduction of the obligation of courts to examine ex officio, in enforcement proceedings arising from consumer contracts, if the contract contains unfair (void) provisions, in which case the courts would be obligated to deny the application for enforcement and postpone or suspend the enforcement insofar as it is based on void provisions.

According to the information we received from the MJPA, they still plan to amend the Enforcement Act to disburden employers and the CPII from carrying out enforcements, but they have indicated that such an amendment requires prior comprehensive analysis, as well as and alignment and the networking of the different systems that take part in carrying out enforcements. Regarding consumer protection in enforcement matters, the MJPA informed us that the existing legislative regulation and recent case law provide consumers with satisfactory protections in enforcement matters.

Recommendation 108 (reiterated)

For the Ministry of Justice and Public Administration to: produce a comprehensive analysis of the enforcement system, and draw up the proposal for a new Enforcement Act based on this analysis

In the context of the latter, at a meeting with the Presidents of the Civil Chambers of the County Courts, held in 2022, the SCRC adopted a conclusion under which the enforcement court, in proceedings in which enforcement is carried out based on enforceable instruments that have not passed court control (writ of execution based on an authentic document, promissory note, notarial act, acts executed as notarial deeds, and similar), which arise from a consumer contract, is obligated to examine ex officio if the consumer contract contains unfair (void) contractual provisions. Some county courts have reported that they have, in accordance with this conclusion, scheduled hearings to establish the voidness of contractual provisions, examined ex officio if the enforceable instrument contains unfair contractual provisions, referred the party subject to enforcement, unless this party had expressly stated their wish to remain bound by the unfair contractual provisions, to initiate litigation in order to declare the enforcement inadmissible, and postponed the enforcement. They have reported that the large number of postponed enforcements, and consequently of unresolved enforcement cases when the initiated litigations take a long time, represent a challenge in this regard.

Considering that participants find it difficult to navigate enforcement proceedings due to frequent amendments to the relevant acts, we would once again like to draw attention to the need to stop the practice of partial interventions in enforcement law regulations, to perform a comprehensive analysis

of the enforcement system, and to draw up a proposal for a new Enforcement Act.

We still insist on the need to find a way to exempt from enforcement the payments from solidarity funds intended for medical purposes, which we had recommended in our 2021 Report as well. The MJPA feels that it is definitely necessary to exempt from enforcement, to some extent, the donations for medical support from private funds organised at the initiative of private natural persons and legal entities. However, they also feel that safeguards need to be provided against abuse, and have announced that they would take our proposal into consideration during the next amendment of the Enforcement Act.

Recommendation 109 (reiterated)
For the Ministry of Justice and Public Administration to: prepare a proposal on how to exempt payments from solidarity funds intended for medical purposes from enforcement

Even though we welcomed the announced adoption of an act regulating the entities purchasing and collecting debts in our 2021 Report, the adoption of this act has been postponed for 2023.

During the public consultations about the amendments to the Ordinance on the manner and procedure for carrying out garnishment, we proposed an amendment to the provisions that would provide effective protection against the garnishment of funds transferred from abroad that are normally exempted from enforcement. We had made the same recommendation in our 2021 Report. We were aware from our earlier action of a case in which the party subject to enforcement had been unable to open a bank account protected against enforcement on time to receive child benefit from abroad, and these funds were garnished as a result. Our recommendation was accepted, and the Ordinance was amended. In the event of transfers from abroad, FINA will receive a notice from the party subject to enforcement, stating that this income is exempt from enforcement even without a document proving its existence, and will only instruct the bank to transfer these funds to the frozen account if the enforcement subject does not provide this document within 15 days. This period should be sufficient for the enforcement subject to provide the required document and open an account protected from enforcement.

The number of citizens whose accounts have been frozen due to debt, and the total amount they owe, remain high. On 31 December 2022, the bank accounts of 228,722 consumers were frozen, and their combined debt amounted to HRK 18 billion. The number of consumers whose accounts have been frozen declined by 10,556, and the total amount they owe declined by HRK 100 million compared to 2021. However, accounts that have been frozen for a prolonged period of time are still prevalent: 80.9% consumers (185,143), accounting for 90.5% of the total debt amount, have had their accounts frozen for longer than a year, and the accounts of 91,331 consumers were frozen for debts under HRK 10,000.00. In the best-case scenario, citizens whose accounts have been frozen, if their regular income was equal to or higher than HRK 7,086.00 (average net salary in Croatia that was used for enforcement purposes in 2022) received a monthly amount of HRK 4,724.00, the maximum possible amount that was protected from garnishment. Sadly, many citizens whose accounts have been frozen received much less than that.

Bankruptcies

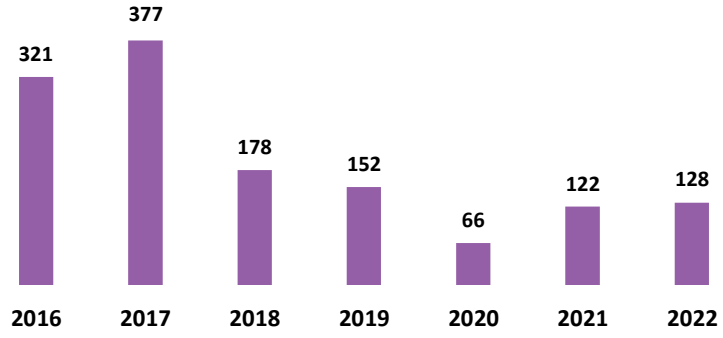
We did not receive as many communications from citizens regarding bankruptcy proceedings. Most of those that we did receive sought legal assistance, and we provided information about the rights and obligations of the parties to bankruptcy proceedings. In one complaint about an unnecessary delay in consumer bankruptcy proceedings, the second-instance court issued a decision about the appeal after we intervened.

"Even though the court has issued its decision, and the proceedings are effectively completed, I am not able to start implementing my plan, because the Financial Agency is still garnishing funds from my accounts. In spite of my letters and the letters sent by my attorney, the Financial Agency is refusing to stop garnishing the funds, claiming that it has not received orders from the court, and the court has still not issued the order. This is creating great difficulty and stress for me as a father of three children, one of whom is 10 months old, because I have no way of escaping the many garnishments and starting to enforce the delivered plan. One would suppose the purpose of the Consumer Bankruptcy Act is to free the enforcement subject of his obligations, and to allow him to fulfil his obligations in accordance with the plan that has been accepted and his objective capacities."

This complainant filed for consumer bankruptcy proceedings in 2018, enclosing a repayment plan. Since one of his creditors opposed the plan, this creditor's consent was replaced with a final decision issued by the court. However, the complainant has not yet started making payments as per the accepted repayment plan, because FINA has not stopped garnishing funds from his accounts in respect of the registered payment bases, claiming to lack a court order, which has not been issued by the court. Upon receiving the statement from the court's president, in which he informed us that the judge in charge issued a final decision and delivered it to the competent authority, and, regarding the complainant's statements, informing us that the judges are independent and autonomous in managing cases and issuing decisions, and the president does not have the power to order them to issue certain decisions in a certain case, we asked the MJPA for its opinion about the application of regulations in the case in question, and we are yet to receive it.

Municipal courts received 128 consumer bankruptcy cases in 2022, six more than in 2021. They issued 16 decisions releasing the applicants from their remaining debt, and the consumers' accounts were unfrozen in the process, after which two consumers had their accounts frozen again.

THE NUMBER OF REGULAR CONSUMER BANKRUPTCY CASES RECEIVED



The municipal courts have stated that the procedure of appointing the bankruptcy trustee is a challenge for them in implementing consumer bankruptcy proceedings. For example, a trustee from Zagreb, Virovitica or Osijek is appointed in proceedings taking place before the Municipal Court in Split through the automatic appointment procedure. Since the trustees based in distant counties find it too costly to travel, they file for recusal, after which a new trustee is appointed through the automatic

appointment procedure, and the new trustee is again based in another county. They also point out that the proceedings are complex and require judges to attend additional training, while average consumers need legal assistance.

According to the data provided by the MJPA, the municipal courts received 21,521 simple consumer bankruptcy proceedings cases in 2022. FINA states that it filed a total of 21,100 applications for these proceedings to the competent county courts in the same period. In 2022, 8,338 consumers had their bank accounts unfrozen through the implementation of simple consumer bankruptcy proceedings, of whom 4,311 had their accounts frozen again.

While the MJPA denies observing systematic problems in the implementation of these proceedings, FINA continues to underline that the citizens are uninformed, disinterested, and are "resisting" the implementation of these proceedings, so to speak.

The MJPA argues that the legal position of consumers was improved substantially with the amendments to the Consumer Bankruptcy Act that were introduced in 2022. For example, the due debt limit for initiating regular consumer bankruptcy proceedings was lowered from HRK 30,000.00 to HRK 20,000.00. Also, the probationary period for consumers was shortened from five years to three. Provisions regulating the summons FINA sends to consumers, asking for a statement of consent to the implementation of the proceedings, were amended in simple consumer bankruptcy proceedings. Since these amendments entered into force on 31 March 2022, their effect will become visible going forward, and we will continue to monitor the situation to see if these proceedings will provide a way out of a disadvantageous financial situation to a significant number of over-indebted citizens.

The lack of interest in these proceedings among the citizens is also apparent from the information that the MJPA received only two inquiries about their implementation in 2022. Given the persisting high indicators of over-indebtedness among citizens, it is important to identify the reasons for the lack of interest in these proceedings, which are supposed to facilitate "a fresh start", among the citizens. Data on the reasons why eligible citizens do not initiate consumer bankruptcy proceedings, or why they oppose the implementation of simple consumer bankruptcy proceedings, should therefore be collected and analysed.

2.20.4. Free legal aid

We continued to receive many inquiries concerning legal counselling and representation in 2022, which shows that the citizens are still insufficiently informed about the Ombudswoman's scope of authority, as well as about the authorised free legal aid providers and the conditions under which this assistance is available. In such cases, we provide the citizens with general legal information about the conditions to access free legal aid, ways to access it, and the aid providers. With respect to primary legal aid, we refer the citizens to authorized aid providers (associations, legal clinics and administrative departments in the counties), and with respect to secondary legal aid, which is provided by attorneys, we instruct them to file an application to the administrative departments or to the CBA.

Even though we recommended to the MJPA in our 2021 Report to use promotional activities, the media, and other appropriate channels to inform citizens about ways to access free legal aid, no tangible activities were organised in this regard in 2022. Information about the free legal aid system is only available on the MJPA's website. Dissemination of flyers and the use of other information channels

would surely reach more citizens who are in need of free legal aid. Even though the providers continually inform the citizens about free legal aid in their areas of activity, since there are no registered providers in some parts of Croatia, these activities need to be elevated to the national level.

According to the data in the Registry of Free Legal Aid Providers, 53 authorised associations or legal clinics are active in Croatia, as many as 45% of which are based in the City of Zagreb. Many other parts of Croatia (such as Zadar, Šibenik-Knin and Dubrovnik-Neretva counties) do not have a single registered free legal aid provider. Some of the providers make field visits to the more remote places in their areas of activity. For instance, ILC Slavonski Brod made field visits every other week to provide free legal aid to the citizens of Požega, Pleternica, Okučani and Stara Gradiška, and CRP Sisak provided free legal aid to residents of the container village in Glina once a month.

Croatian Government and the MJPA moved to increase the funds and provide multiannual funding to authorized free legal aid providers in 2022, which is also in line with our recommendations. EUR 830,181 (HRK 6,254,998.74) was marked for the free legal aid system on the whole in the budget for 2023 and the projections for 2024 and 2025, of which EUR 549,472 (HRK 4,139,6996.78) is intended for the providers' projects (authorized associations and legal clinics), and EUR 280,709 (HRK 2,115,001.96) is intended for secondary free legal aid. Budget funds for free legal aid were increased 57% in comparison with 2022, which is certainly a positive development.

In addition, the number of complaints dealing with the long duration of the second instance proceedings before the MJPA with respect to appeals against decisions on free legal aid was reduced by 90% in 2022.

Recommendation 110

For the State School of Public Administration to: organise specialised trainings for the staff of the administrative departments of the counties providing free legal aid on the legal topics that the citizens most often contact them about

Recommendation 111

For the Croatian Bar Association to: ensure the availability of attorneys to provide secondary free legal aid in the areas of jurisdiction of all courts

Seven members of the Free Legal Aid Committee were appointed in 2022. The Committee is composed of three representatives of the MJPA and one representative of the MF, CBA, faculties of law and primary FLA providers each, which is also in line with our recommendation presented in the 2021 Report. The Committee met two times in 2022 to discuss matters of importance for improving and ensuring the sustainability of the free legal aid system.

The institutional framework of the free legal aid system is composed of CADs, which, in addition to receiving requests for the approval of secondary legal aid, are also authorized to provide primary legal aid. This is the only way to access free legal aid in the areas that have no registered free legal aid providers.

However, the data provided by CADs indicate that the staff working on tasks related to free legal aid are insufficiently trained in various areas of law and are consequently not always able to provide adequate legal aid (for instance, in family, administrative or labour acts, act related to enforcements, and similar matters).

The data provided by the CADs show that some Croatian regions still face a shortage of attorneys providing secondary free legal aid. For example, the areas falling under the jurisdiction of the courts in

Gračac, Pag and Biograd na Moru do not have a single attorney available to provide this type of aid. Even though the statement provided by the CBA indicates that the list of attorneys providing free legal aid has been updated, as we had recommended in our 2021 Report, the availability of secondary legal aid still needs to be ensured in areas where no attorney firms or clerk's offices exist, which has not been fully achieved yet.

2.20.5. Discrimination case law

In our analysis of the case law related to discrimination, we used the preliminary data made available by the MI, and the available court decisions. Unfortunately, even though the MJPA is required by the ADA to provide records and statistics concerning the cases related to discrimination to the Ombudswoman by 1 February for the previous calendar year, we only received this information immediately prior to the presentation of this Report, and we were therefore unable to process it adequately and comprehensively.

Civil and labour law cases

Provisions of the Civil Procedure Act regulating the filing of second appeal, including in anti-discrimination court cases, were amended in 2022. The amendment to the Civil Procedure Act deleted Article 382.a, which allowed the filing of second appeal without the SCRC's permission in an exhaustive list of proceedings, including those initiated due to discrimination.. These proceedings were thus recognised as legally complex and urgent, and requiring the parties to be provided with more direct access to all instances of judicial redress. Second appeal by permission is the only type of second appeal provided by the amendments to the above act, which extends the time required to take a decision on second appeal for parties in urgent anti-discrimination court proceedings even further, if the second appeal is granted. With this amendment, the parties were also placed in a situation where they are required to lodge a constitutional complaint at the same time as filing a request for second appeal to be granted, which are two different and very complex legal acts.

As of November 2022, the value of the score that is used to calculate the prices of attorney services regulated by the Tariff for lawyers' remuneration and cost reimbursements was increased 50%, which can affect the exercising of the right to access to justice for citizens in a disadvantageous material situation who are not entitled to free legal aid. We already noted in previous years that the long duration of proceedings and the costs of litigation deter citizens from seeking judicial redress.

Based on the available verdicts from 2022, applicants claimed between HRK 5000 and HRK 110,000 in respect of non-material damage in proceedings related to discrimination, and they were not awarded the full amount claimed in any of the cases. Since sanctions play a major role in strengthening anti-discrimination, the compensation of damages in these court proceedings should be effective, proportionate and dissuasive, as indicated in EQUINET's publication "Preventing and Reacting to Discrimination through Sanctions and Remedies"[xvii], published in 2022.

Court proceedings were initiated on account of various actions taken by defendants, mostly employers, such as harassment in the workplace, violation of workers' dignity, prevention of career advancement, degrading behaviour, denial of rights and work assignments, and similar matters. The majority of the proceedings were initiated on account of discrimination based on trade union membership, gender, and social position. Discrimination based on race or ethnicity, religion or political belief was less commonly cited as the grounds for court proceedings.

Even though the ADA has been in force for 14 years, some verdicts show that the understanding of conditions for the existence of discrimination is still incomplete, for instance, that the difference between discrimination and mobbing is unclear, and in some verdicts, "mobbing" and related terms are used as synonymous with discrimination.

Misdemeanour and criminal cases

Our overview of the misdemeanour cases related to discrimination is based on the preliminary information provided by the MI regarding the cases covered by the ADA, and on verdicts delivered to us by municipal courts.

Misdemeanour cases related to discrimination are typically committed during verbal confrontations in communication between neighbours, family members or partners, where the victim's features associated with the grounds of discrimination are used to degrade the victim and injure their dignity. Most of these cases involve a pre-existing conflict between the victim and the accused person or unresolved property disputes or other types of disputes.

When misdemeanour proceedings are targeted at larger groups of people or when they are less personal in nature, the majority of the misdemeanours involved were committed at football matches or in online comments.

According to the information provided by the MJPA, 58 persons were convicted by a final verdict for committing misdemeanours defined in Article 25 of the ADA in 2022.

Most of the available convictions concerned circumstances in which the accused, often acting under the influence of alcohol, used derogatory terms for members of certain minority (usually ethnic) groups to refer to the victim in a raised and insulting tone of voice. These circumstances often led to concurrence with other misdemeanours, mostly those covered by the Act on Offences Against Public Order and Peace.

Some of the verdicts illustrate the lack of recognition of the grounds of discrimination laid down in the ADA as the perpetrator's motive. One verdict thus refers to the victims "regional background" in the explanation of the verdict, even though the case concerns the person's ethnic background. For the sake of correct law enforcement and development of unified case law, it is important to recognise the grounds of discrimination by which the harassment was motivated.

In order for offensive and abusive words uttered on the grounds of nationality, religion, or another feature related to one of the grounds of discrimination to be sufficient for sanctioning under the ADA, these words have to be uttered with an intent to evoke fear or create a hostile, humiliating or offensive environment. As we had noticed last year, the courts are becoming increasingly careful in analysing the context and the circumstances of the words uttered, and the perpetrator's intent to cause the effects described in the act. This has led to several acquittals, because the factual description of the misdemeanour did not include all its constituent elements.

Recommendation 112

For the Justice Academy to: continue raising awareness of hate crimes and combatting intolerance and hatred

The Justice Academy held several workshops dedicated to hate crimes and the suppression of intolerance and hatred, but a notably small number of misdemeanour judges attended them.

Administrative disputes

The data on administrative disputes related to discrimination are not included in the statistics kept by the MJPA. We receive this information from the administrative courts. This information and the verdicts sent to us are an important indicator of the occurrence of discrimination in administrative proceedings, and in some cases also of the citizens' misperceptions relating to discriminatory actions taken by public law bodies.

Recommendation 113 (reiterated)

For the Ministry of Justice and Public Administration to: keep the statistics about administrative disputes related to discrimination, grounds of discrimination, their outcome and their duration

The High Administrative Court informed us that no separate record is kept in the eSpis system of cases in which the party claimed discrimination, due to which the Court does not have the exact number of such cases in 2022, but they did send us the relevant verdicts. According to the information of the Administrative Court in Rijeka, 12 cases in which the parties claimed discrimination were received in 2022, while the Administrative Court in Split had three such cases. Administrative Courts in Osijek and Zagreb informed us that, according to the records kept by their clerk's offices, no verdicts were issued in disputes in which the parties claimed discrimination in 2022. To monitor this type of administrative disputes systematically, we need to keep systematic records.

The verdicts that have been provided to us show that the applicants claimed discrimination in disputes initiated due to a variety of legal matters. Examples include disputes related to the appointment of a director of a public institution, adoption of a decision on assignment to a position involving less complex tasks in the public service, recognition of the right to tax relief for a child with disability, procedures seeking the recognition of asylum and subsidiary protection, procedures to establish old-age pension, procedures to establish long-term disability benefits due to professional incapacity for work, recognition of a widowed non-marital partner's right to family pension, compensation for physical impairment, exercise of the right to material aid for a newborn child, and other matters.

The plaintiffs claimed that their cases involved discrimination on grounds of age, marital or family status, disability, sexual orientation or religion, and some also claimed discrimination by association. Most plaintiffs provided an explanation, along with factual and legal argumentation for their claims of discrimination committed by public law bodies in administrative proceedings, while others only made general claims, mentioning no grounds of discrimination. This indicates that the parties typically see administrative courts as unlimited jurisdiction courts, and expect them to examine the claims of discrimination while hearing the main action. Available verdicts suggest that the administrative courts lived up to these expectations, and gave reasoned statements on the claims of discrimination, whether they found these claims to be grounded or not, applying national and European anti-discrimination law. In doing so, they also fulfilled the educational purpose of the verdicts, teaching the parties about the criteria based on which discrimination is identified.

Below we will draw attention to some of the verdicts issued in 2022 that are indicative of the width of the areas of law to which the proceedings conducted before the administrative courts belonged, as well as the importance of the claims of discrimination for the final decision in the administrative dispute.

The High Administrative Court handled a dispute concerning the failure to carry out the procedure assessing the suitability and eligibility of persons in a registered partnership to become adopters (the assessment was supposed to be carried out by the Social Welfare Centre). The Court confirmed the ruling of the first-instance court, voiding the decision issued by the MLPSFSP, and ordering the Ministry to decide the earlier appeal lodged by the applicants because they were denied access to the procedure assessing the suitability and eligibility to become adopters. The High Administrative Court pointed out that, in addition to examining the lawfulness of the actions taken by the public law bodies, this case and the related application of regulations should also be examined in the context of the protection of human rights under the ECHR. Referring to the ECtHR's case law, the Court states that a relationship between two persons of the same gender falls within the concept of "family life" just as a relationship between two persons of different genders does, which means that they should be treated equally in equal situations, and denial of access to the adoption process to persons living in a registered partnership on the sole grounds of their sexual orientation would constitute discrimination in the exercise of the right to family life.

The Administrative Court in Rijeka handled cases dealing with the removal of persons from the list of bankruptcy trustees after they reached 70 years of age in line with the Act on Amendments to the Bankruptcy Act. The Court found the fact that bankruptcy trustees, like judges and notaries, act on the basis of public authority to be relevant, and found that laying down a maximum age as the condition for the performance of the duties of bankruptcy trustees cannot be characterised as discrimination. The Court explained that the nature of the bankruptcy trustees' work is such that characteristics related to age as the grounds of discrimination constitute an actual and decisive condition for its performance, that the purpose is justified and the condition balanced, and that the age restriction is not disproportionate because it is the same as in other offices in the justice system that are associated with public authorities, and is more advantageous than the general labour law restriction.

The Administrative Court in Rijeka handled the case of a widowed non-marital partner whose request for family pension was denied because, under the Pension Insurance Act, family members are entitled to this pension if the non-marital partnership existed on 28 March 2008 at the earliest (when non-marital partnership was introduced to the pension insurance system) or later, and if the partnership lasted for a minimum of three years. The applicant's non-marital partnership lasted by 26 November 2003. The Administrative Court referenced Ruling U-III-2287/2017 issued by the Constitutional Court, according to which the Constitution does not differentiate between marriage and non-marital partnership with respect to family, and widowed married partners and non-marital partners should be equally entitled to family pension. Furthermore, the Constitutional Court ruled that excluding widowed non-marital partners from the possibility of exercising the right to the family pension just because they lived with their partner before 28 March 2008 in spite of the fact that the prerequisites of duration, birth of a shared child, and existence of a court ruling adopted in a non-contentious procedure have been fulfilled contravenes the purpose of the law. In line with the above, the Administrative Court, without prejudging the issue whether the applicant meets the conditions to be recognised the right in question, ordered a repetition of the proceedings in order to issue a decision based on the positions taken by the Constitutional court.

2.20.6. Hate crimes

Hate crimes refer to criminal offences motivated by a person's racial background, skin colour, religion, national or ethnic background, language, disability, gender, sexual orientation or gender identity, and are a significant indicator of prejudice, discrimination and hate targeted at minority groups. Monitoring and comparison of data on hate crimes allows us to draw conclusions about the frequency of these criminal offences and the motives underlining them, which is important for their identification, adequate sanctioning, and the design of preventive measures.

In previous years, our analysis of the occurrence of these criminal offences was based on statistics provided by the MI, the SAO, the MJPA, and the OHRRNM, in combination with the data we gathered by monitoring the actions taken by the police and the judiciary in individual cases. The Protocol of Actions in the Event of Hate Crimes, adopted in 2021 introduces some innovations regarding the deadlines and time intervals in which certain bodies collect and deliver the data on these criminal offences to the OHRRNM, which requires a different method of their analysis.

One innovation introduced by the Protocol concerns the data collection period for these criminal offences. Data covering the period from January to June of the current year are to be submitted by 1 September, and data covering the period from July to December of the previous year are to be submitted by 1 March. Compared to the 2021 Report, when we only had access to the data for the first half of 2021 due to these amendments, we had access to the data for the full year of 2021 when drawing up this Report. However, we did not receive the official information on hate crimes for 2022 from all bodies that are required to collect this information by the time we finished drawing up this report. The MJPA sent its information immediately prior to the presentation of this report, which prevented us from carrying out an adequate and comprehensive analysis.

Having compared the statistical information we have received over the years, we concluded that the number of these criminal offences had been on the rise by 2021. According to the MI's data for 2021, the Ministry handled 101 criminal offences that were registered as hate crimes, of which 13 were cases of public incitement to violence and hatred, described in Article 325 of the Criminal Code. In comparison, the MI handled 28 hate crime cases in 2017, 33 cases in 2018, 51 cases in 2019, and 87 cases in 2020, including public incitement to violence and hatred.

Similar to the previous years, the majority of the criminal offences in this group that were handled by the MI in 2021 fell in the category of threat (40) and material damage (16), followed by inflicting bodily harm or grievous bodily harm, and violent behaviour (15).

The victim's ethnicity remained the main motivator for the perpetrators of these criminal offences. Out of 101 criminal offences registered by the MI, including hate speech, as many as 67 were motivated by national background, followed by sexual orientation (13), racial background or skin colour (12) and religion (8).

Out of the 67 registered criminal offences that were motivated by national background, 46 targeted Serbs, nine targeted Croats, two targeted the Roma and Albanians each, and one each targeted people of Spanish, Russian, Turkish and Hungarian nationality. Speaking of criminal offences against members of religious groups, the Ministry registered criminal offences targeting Jehovah's witnesses (4) and persons of Orthodox (3) and Muslim (3) faith.

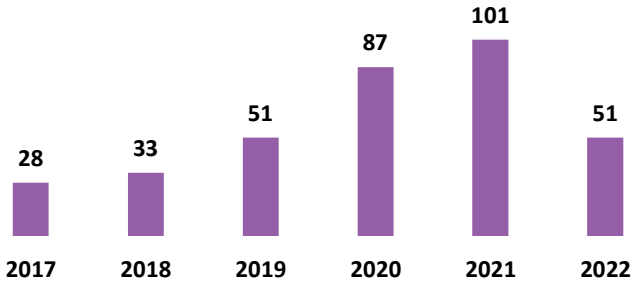
The criminal offence of threat (52) was also common among the cases handled by the SAO in 2021, followed by material damage (29) and bodily injury, grievous bodily injury and particularly grievous bodily injury (21).

The overwhelming majority of these offences were motivated by national background, since it was the motivation underlying as many as 91 criminal offences handled by the SAO. The other motivations included sexual orientation (16), racial background or skin colour (9), religion (8) and gender identity (1).

Rulings were adopted in 2021 in three criminal offence cases that involved threat and one that involved material damage and grievous bodily injury each.

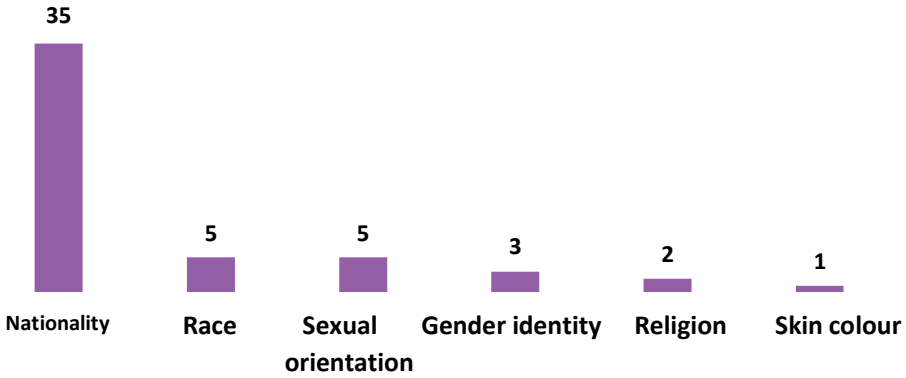
In 2022, the MI registered 51 criminal offences involving hate crimes, including the criminal offence of public incitement to violence and hatred, which means that there has been a substantial decline in the number of registered cases for the first time in recent years.

The number of criminal offences involving hate crimes (records of the MI)



National origin remained the leading motivating factor for these criminal offences in 2022, as it was registered in as many as 35 cases, followed by race and sexual orientation with five criminal charges each that were filed to the police.

Hate crime motives (records of the MI)



Comprehensive data, further analysis, and monitoring of these criminal offences will reveal which reasons led to the decline registered in the statistics: whether the decline is due to underreporting and/or lack of recognition of these criminal offences, or the number of hate crimes cases has really decreased.

We also monitored how competent law enforcement bodies handled possible individual hate crime cases that we mostly found out about from the media. We continued to monitor violent incidents in the Vukovar area that we have reported in our previous reports as well. According to available data, most of these incidents have had an epilogue before a court of law, meaning that they were prosecuted in criminal proceedings. However, not all of these offences were qualified as hate crimes, because some of them involved physical confrontations of rival football supporter groups. In circumstances where the national background and football supporter motives are intertwined, assessing the motives for the criminal offences is more difficult, that is to say, it is more difficult to tell if a hate crime was involved.

In our 2021 Report, we recommended to the MI to provide training for police officers in identifying and prosecuting hate crimes. The OHRRNM, in cooperation with the Justice Academy, delivered a seminar in Vukovar on hate crimes and hate speech for criminal court and misdemeanour court judges and advisors working for municipal and county courts, assistants and advisors at state attorney's offices, police officers and CSOs. We welcome the organisation of the trainings for judicial officials and civil servants who work on these criminal offences as a positive development and are of the opinion that such trainings should be held regularly and cover as many police officers and judicial officials as possible.

We also monitored the case that involved a damaged vehicle and a message written on it, with a video of the act posted on social media. Criminal charges were filed to the state attorney's office in this case for the criminal offences of material damage and public incitement to violence and hatred. This case is indicative of a new phenomenon, in which perpetrators of hate crimes film themselves in the act and post the video on social media, thus making it accessible to a wide circle of people.

Among the cases we monitored in 2022, we would also like to draw attention to the case of a Zagreb taxi driver who was beaten up on account of his Roma background. The MI filed criminal charges to the state attorney's office in this case for the criminal offences of threat and bodily injury, motivated by hatred.

In addition to monitoring and analysing the data on hate crime cases, we also strive to exchange good practices with other authorities working in this field. In October 2022, the Ombudswoman hosted a study visit for the representatives of the Republic of Kosovo's ombudsman institution, the Office for Good Governance that operates within the Kosovan PM's Office, which was supported by the OSCE mission in Kosovo. The delegates were informed about the relevant legislative frameworks dealing with hate crimes and hate speech, the mechanisms for monitoring the occurrence of these criminal offences, and the activities of the task force monitoring hate crimes. They visited and held meetings with the institutions participating in the activities of this task force, with special ombudsman offices, and with civil society.

2.20.7. Victim and witness support

"... During the interrogation, the judge did not respect my rights as the victim of a criminal offence. At the very beginning of my testimony, I asked the judge not to put down my home address, and to use my work address instead as the address where I could receive communications from the court. She refused my request, insisting that my home address has to be included in the minutes. I explained to her that I feared the defendant could come to my home and put myself and my family in danger, because he has the right to access the case file, and he can find my address there. The defendant has a prior conviction for a violent crime..."

Notable progress was made in the victim and witness support system in 2022 by improving the implementation of individual victim assessments and special protective measures designed to mitigate the risk of damage and further traumatisation, along with the expansion of the Support Network to four counties that have victim and witness support departments at county courts, increased production and distribution of informational materials and increased media visibility, and the launch of the Support Network (Mreža podrške) website, which has had almost 90,000 views in the six months since its launch.

However, satisfactory victim and witness support standards, as defined by Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, have still not been achieved in practice, especially with respect to the most vulnerable persons who find it exceptionally difficult to go through long-lasting criminal proceedings and face the consequences of criminal offences.

Even though judges sometimes face an excessive caseload, and the parties are sometimes partly responsible for the long duration of the proceedings too, it is important to have the court decide on the charges within a reasonable timeframe, taking into account the rights and the best interests of the victim, preventing abuse of procedural rights, and using legal means to ensure the presence of the parties and witnesses. As indicated in the 2021 Report on the State of Judicial Authority, presented by the President of the Croatian Supreme Court, first-instance criminal cases before municipal courts were on average resolved in 690 days. Criminal cases handled by the county courts took an average of 350 days to resolve in the first instance, and 120 days in the second instance. The data concerning war crimes cases is particularly alarming, especially from the perspective of the victims, who have waited for justice for years: the average time taken to resolve these cases was 2,327 days, which significantly increases the risk of new emotional and psychological damage, and undermines the sense of access to justice, and trust in the justice system in general.

Recommendation 114

For the Justice Academy to: organise regular trainings for judicial officials about the rights and individual assessment of victims

Over the previous years, we had drawn attention to the need for continuous training for judicial officials in the field of victim and witness rights, and for efforts to raise awareness of their needs, especially for officials participating in individual assessment of the victims' needs. In practice, police officers, state attorneys and judges are responsible for the procedure of individual assessment of support for victims. They usually do not cooperate with the relevant authorities, institutions, CSOs

and support departments in this process, and the victims themselves are insufficiently involved in the decision-making and risk assessment process. No workshops dealing with victims' rights were organised as a part of the regular curriculum for judicial officials at the Justice Academy in 2022.

In September 2022, the MJPA set up a task force to improve the legislative framework regulating protections from violence against women and domestic violence, whose objective is to prepare a proposal of amendments to the Criminal Procedure Act, the Criminal Code, the Protection against Domestic Violence Act, the Courts Act, and the Ordinance on the Manner of Execution of Precautionary Measures, and the Ordinance on Conducting Individual Victim Assessment.

Expansion of the list of crimes whose victims will be entitled to anonymity should be considered in the upcoming amendments to the Criminal Procedure Act. For instance, a victim of the criminal offence of threat sought our help because she was asked to specify her place of residence at the main hearing, even though the defendant was present. In such situations, it is potentially problematic that the defendant is aware of the residence address of the victim or witness to a criminal offence who is testifying at the hearing in support of the suspicion that the elements of a criminal offence are present, which can lead to a sense of insecurity and additional traumatisation.

Recommendation 115

For the Ministry of Justice and Public Administration to: establish victim and witness support departments at county courts where they have not yet been established

The victim and witness support system has only been set up at seven county courts (Vukovar, Osijek, Sisak, Zagreb, Rijeka, Zadar and Split) and at seven municipal courts in these cities based on agreements on the establishment of common services with the departments at the county courts. In the counties where the support departments have not been set up, these tasks have been entrusted to CSOs through the MJPA's programme "Support and Cooperation Network for Victims and Witnesses of Criminal Offences". CSOs face problems such as the lack of adequate spaces to accommodate the victims in, due to which victims are sometimes forced to wait for the hearings in court corridors, where they run into the defendants. In addition, some courts do not have adequate technical equipment, meaning that they do not have audio and video devices that would allow victims and witnesses to testify without coming into direct contact with the defendant.

The toll-free line operated by the CSO for Victim and Witness Support in cooperation with the MJPA within the National Call Centre for Crime Victims, which can be reached on the phone number 116 006, is still available 24/7, and was dialled by almost 1,700 citizens in 2022. In addition, the National Call Centre has been implementing a pilot project since February 2022 in cooperation with the MI and the MJA, in which police officers offer the victims who are reporting a crime to have their personal data shared with the Centre, with their consent, so that they can be contacted within 48 hours to receive emotional, legal or practical assistance, and to be referred to the relevant institutions or CSOs. This should help better protect the victims' rights, because the victims need to be informed about their rights in an easy-to-understand form, in writing and in speech, on multiple occasions throughout the proceedings in order to be able to exercise their rights, and they need to receive adequate assistance and support from the moment when the criminal offence was committed and, if necessary, also after the criminal proceedings have been concluded.

2.20.8. Proceedings before the European Court of Human Rights

The European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols are among the core instruments protecting human rights and freedoms in Europe, and are based on two foundations: the right to an individual petition, and the obligation of CoE member states to abide by the judgments of the ECtHR.

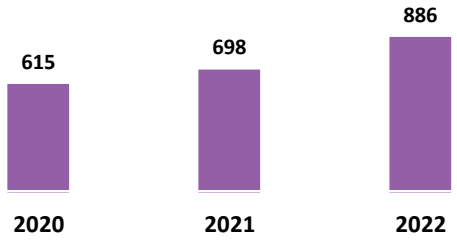
In order to align the Convention with the needs and the development of societies, 16 protocols have been adopted so far, introducing a number of amendments to the functioning of the ECtHR. Protocol No. 15 has reformed the Convention's system for the protection of human rights by strengthening the principle of subsidiarity and the doctrine of the margin of appreciation of the states, amending the admissibility requirements for petitions, and shortening the deadline for their submission from six to four months.

The recommendations issued by the Council of Europe's Committee of Ministers (CM) are also an important human rights protection mechanism. Recommendation CM/Rec(2021)4, drawing attention to the need to continually publish the ECtHR's case law on the national level, is one of the more important ones. The publication of the translations and analyses of the ECtHR's judgments on the website of the Office of the Agent of the Republic of Croatia before the ECtHR was therefore further improved in 2022.

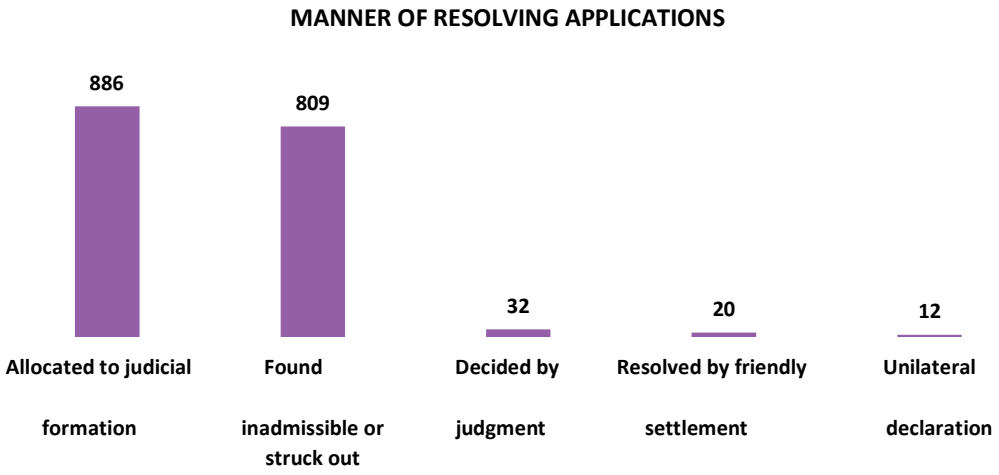
In July 2022, the CM adopted the decision to amend Rule 9 of the *Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements of ECtHR* laying down the entities that have the power to inform the CM in the procedures of the execution of judgments at the national level as to whether the execution measures proposed and taken by the state are efficient, or additional measures need to be implemented. Until now, only national human rights protection institutions (Ombudswoman in Croatia) and CSOs had this power. With the said amendment, this power was also given to bar associations and attorney associations.

Statistics

NUMBER OF APPLICATIONS CONCERNING CROATIA ALLOCATED TO A JUDICIAL FORMATION

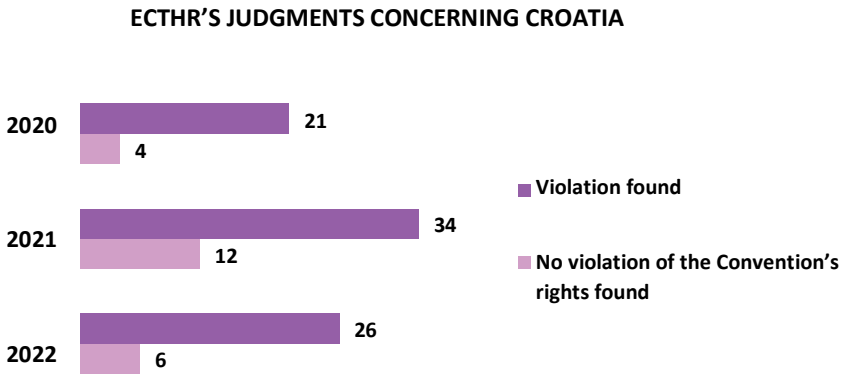


The ECtHR's statistics indicate that 886 applications concerning Croatia were allocated to a judicial formation in 2022, 27% more than in 2021. Out of the total number of applications concerning Croatia that the ECtHR decided on in 2022, 809 were found inadmissible or struck out, 32 were decided by judgment, 20 were decided by friendly settlement, and in 12 cases the Croatian Government issued a unilateral declaration on the violation of Article 6 of the Convention.


MANNER OF RESOLVING APPLICATIONS
886
809
32
20
12
Allocated to judicial formation
Found inadmissible or struck out
Decided by judgment
Resolved by friendly settlement
Unilateral declaration

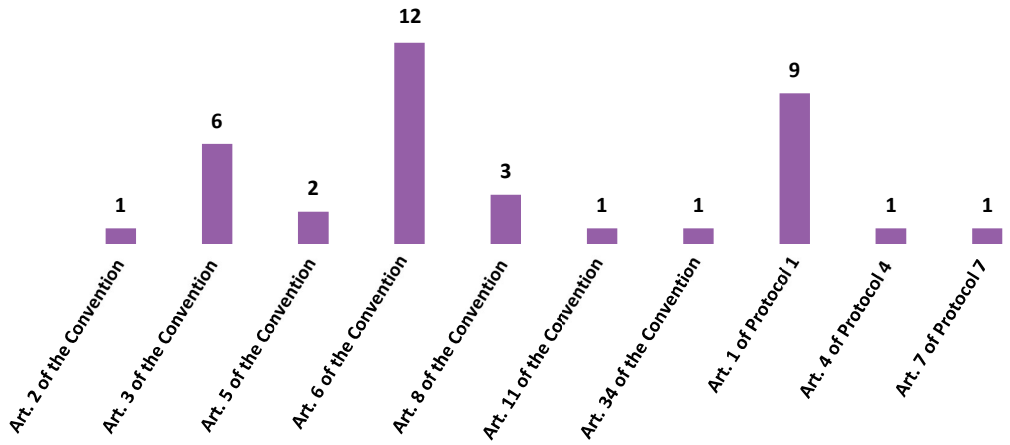
Judgments concerning Croatia in 2022

Out of 32 judgments concerning Croatia that were given by the ECtHR in 2022, violations of rights enshrined in the Convention were found in 26 cases, and no violation of the Convention's rights were found in six.



The data provided by the Office of the Agent of the Republic of Croatia before the ECtHR show that, among the judgments that became final in 2022, the ECtHR found 12 violations of Article 6 of the Convention (the right to a fair trial, including the right of access to a court and to reasonable duration of the court proceedings), nine violations of Protocol No. 1, Article 1 (protection of property), six violations of Article 3 (prohibition of torture), three violations of Article 8 (the right to the respect of private and family life), two violations of Article 5 (right to liberty and security), and one violation of each of the following: Article 2 (right to life), Article 11 (freedom of assembly and association), Article 34 (individual applications), Protocol No. 4, Article 4 (prohibition of collective expulsion of aliens), and Protocol No. 7, Article 4 (right not to be tried or punished twice in the same matter).

IDENTIFIED VIOLATIONS OF THE CONVENTION



The violations found by the ECtHR's judgments can be procedural or substantive in nature. Procedural violations occur in cases when a protected right has been violated in the decision-making process, and have no effect on the final outcome of the proceedings. With substantive violations, the outcome of the process is also the violation. A different outcome of the process is needed to remedy the substantive violation, while procedural violations do not necessarily require a different outcome to be remedied. Violation of Article 6 of the Convention, which guarantees the right to a fair trial, is of procedural nature, because the purpose of this article is to protect procedural rights, while the other articles of the Convention are both substantive and procedural in nature.

With respect to Article 3 of the Convention, which prohibits torture and degrading treatment, and in the procedural aspect requires efficiency from the state in carrying out investigations, we would like to highlight the following judgments concerning Croatia that were given by the ECtHR in 2022:

Hrnčić v. Croatia (No. 53563/16), Katanović and Mihovilović v. Croatia (Nos. 18208/19 and 12922/20), Kopić v. Croatia (No. 16789/19) and *Huber v. Croatia (No. 39571/16),* in which the ECtHR, addressing the inadequate living conditions in the Zagreb and Varaždin prisons and the Lepoglava Penitentiary, applied the existing case law and principles developed in the cases *Muršić v. Croatia* and *Ulemek v. Croatia.* The ECtHR repeated that the lack of personal space in a prison cell is a particularly important criterion in determining if the prison conditions were degrading from the perspective of Article 3 of the Convention.

In the cases *Perkov v. Croatia (No. 33754/16)* and *J.I. v. Croatia (No. 35898/16)*, the ECtHR found procedural violation of Article 3 due to inefficient investigation and failure in the actions taken by the

competent state attorney's office and the police, underlining that the identified failures made the investigation conducted by the Croatian authorities inefficient, and represented a violation of the positive obligation that requires the state to conduct an efficient and detailed investigation of all allegations of abuse or threat.

In the context of violation of Article 5 of the Convention (the right to liberty and security), the ECtHR gave judgment in the case *Miklić v. Croatia (No. 41023/19)* in connection with the procedure of assessment of the applicant's mental state, which was in contravention with the provisions of the local law, and was not based on an objective and recent opinion of expert witnesses.

As we have already mentioned, the majority of the judgments given concerning Croatia were related to violations of Article 6 of the Convention (the right to fair trial): *Drača v. Croatia, Jurčić v. Croatia, Pozder v. Croatia, Tabak v. Croatia, Trajektna luka Split d.d. v. Croatia, Žic v. Croatia, Štefek v. Croatia, Dragan Kovačević v. Croatia, Cvetković v. Croatia* and *Croatia Bus d.o.o. v. Croatia.*

The judgment in the case *Dragan Kovačević v. Croatia (No. 49281/15)* concerns the refusal to award the reimbursement of the costs of a procedure before the Constitutional Court. The Constitutional Court accepted the applicant's constitutional complaint and revoked the decision divesting the applicant of his legal capacity, but refused the applicant's request for the reimbursement of costs, invoking Article 23 of the Constitutional Court Act, providing that each participant in the proceedings before the Constitutional Court has to bear their own costs, unless decided otherwise. The ECtHR found that the refusal of the Constitutional Court to reimburse the applicant's costs of lodging a constitutional complaint restricted the applicant's right to access a court that was disproportionate in the specific case, taking into account that the preceding non-contentious procedure had been "of existential importance" for the applicant, since it concerned the matter of assessment of his legal capacity, and since because of the legal complexity of the proceedings and the fact that the applicant was a person suffering from a mental disability required the applicant to be represented by an attorney before the Constitutional Court. Considering that the Constitutional Court had not provided a specific explanation for the decision not to reimburse the constitutional court costs, but merely cited a provision of an act, the ECtHR found that Article 6 Paragraph 1 of the Convention had been violated. The Constitutional Court amended the contested elements of its practice in 2020[xviii], while the application in this case was submitted in 2015.

In connection with the costs of the proceedings in the context of the violation of the right to access a court, the ECtHR gave the judgment in the case *Štefek v. Croatia (No. 65173/17)*, in which the costs of the civil proceedings before the Croatian courts that the applicant was ordered to pay exceeded the amount that the applicant was awarded as a result of his successful claim. The ECtHR had previously given a judgment on the same matter in the case *Klauz v. Croatia*, which resulted in the amendment of the Civil Procedure Act in 2019 and in the courts harmonizing their practice with the ECtHR's judgment in this respect[xix], however, the application in the case *Štefek v. Croatia* had been submitted before that. In the case *Cvetković v. Croatia* (No. 28539/16), the ECtHR found a violation of Article 6 of the Convention because the second-instance court had not given sufficient reasons for its decision, nor addressed the central legal issue on account of which the legal proceedings had been initiated. The ECtHR therefore concluded that the proceedings fell short of the requirement of a fair trial.

In the context of violation of Article 8 of the Convention (right to respect for private and family life), the ECtHR gave two judgments in 2022, in the case *Z v. Croatia* (No. 21347/21), concerning proceedings for the return of children under the Hague Convention on the Civil Aspects of International Child Abduction, and in the case *H.P. and Others v. Croatia* (No. 58282/19), concerning a custody dispute.

The ECtHR found that Article 11 of the Convention was violated in the case *Vlahov v. Croatia* (No. 31163/13), finding in its judgment that the applicant's right to freedom of association had been violated. The applicant held the position of a representative of the Šibenik branch of the Croatian Customs Officers' Trade Union (*Carinski sindikat Hrvatske*). Acting in this capacity, the applicant refused the application of 15 Customs Office employees for membership in the union, and was convicted by a final verdict for the criminal offence of violation of the right to association. The ECtHR underlined that the rulings issued by Croatian courts were succinct and lacked reasoning with respect to the alignment of the applicant's actions with the relevant rules and the rules of procedure of the trade union, and that Croatian courts refused the applicant's motion for the presentation of additional evidence that might have shed light on the circumstances in which the potential members sought to join the trade union. In view of the failure of Croatian courts to examine all relevant circumstances of the case, absence of hardship suffered by the would-be members of the trade union, and absence of any discriminatory motive in the applicant's actions, the ECtHR found that the right to freedom of association had been violated.

The ECtHR gave six judgments concerning Croatia for violation of Article 1 of Protocol 1 to the Convention (protection of property), among which the most notable judgments were given in the cases *Hegediš v. Croatia (No. 41306/18)* and *Arambašin v. Croatia (No. 48981/17)*, in which the ECtHR found violation of the right to the peaceful enjoyment of property of the owners of the apartments where the protected lessees reside. The applicants brought civil actions seeking eviction of the protected lessees, but their actions were unsuccessful. In its judgments, the ECtHR underlined that the violation of the Convention results from Croatian legislation, which has not provided efficient redress for the applicants to contest the amount of the protected rent or repossess their apartments, which the ECtHR had already found in several past judgments concerning Croatia *(Statileo, Skelin-Hrvoj, Đuričić).* The ECtHR found that Croatian courts have recently developed a practice under which apartment owners can seek reimbursement of the difference between the protected rent and the market rent, but that this new practice only became common after the applicants filed their application to the ECtHR.

Violation of Article 1 of Protocol 1 was also found in the case *Bursać and Others v. Croatia (No. 78836/16)*, in which the applicants made an application against the decision ordering them to pay the fees for the State's representation by the State Attorney's Office in proceedings in which the applicants attempted to prove that they suffered damage as a result of the war crime in which their father was killed by representatives of the authorities. The issues established in this judgment were previously examined by the ECtHR in the cases *Klauz v. Croatia* and *Cindrić and Bešlić v. Croatia*, which resulted in amendment of the Civil Procedure Act in 2019, and the alignment of the practice of Croatian courts with the said judgments[xx].

The other cases in which the ECtHR gave judgments for violation of Article 1 of Protocol 1 to the Convention included *Žic v. Croatia (No. 54115/15, 193/16, 398/16)*, concerning the applicant's inability to have an enforcement title against a local authority executed and to be awarded salary arrears; *Pero Marić v. Croatia (No. 29525/15),* concerning the fulfilment of the state's positive obligations in the case of temporary seizure of the applicant's house, after which the property was returned to him damaged and plundered; and *Pascale v. Croatia (No. 69278/16),* in which the ECtHR examined a matter identical to the cases of *Gabrić, Boljević and Imeri v. Croatia*, finding the amount of cash and cheques seized from the applicant to have been disproportionate to the committed offence.

Execution of judgments made by the European Court of Human Rights

The execution of judgments consists of defining and taking individual and general execution measures to remove the injurious effects of the violations of the Convention that have occurred, and to prevent their repetition. The execution of judgments is supervised by the CM's Department for the Execution of Judgments of the European Court of Human Rights, and at the national level, the execution of the judgments is coordinated by the Office of the Agent of the Republic of Croatia before the ECtHR, which prepares action plans and action reports in cooperation with the authorities responsible for the execution of specific judgments.

The Expert Panel for the Execution of the Judgments of the ECtHR is an interinstitutional authority responsible for identifying the measures for the execution of the ECtHR's judgments, and supervising their execution. The Expert Panel is, among others, composed of representatives of all ministries, the Constitutional Court and the Supreme Court, the State Attorney's Office and the ombudsman institutions, who examine the judgments concerning Croatia from the perspective of the competence of the authorities they represent, and propose specific measures to be enforced.

The Expert Panel's Rules of Procedure from June 2022 define more clearly the role of the ombudsman institutions, which can draw attention to specific issues related to the execution of the judgments, and participate in discussions about specific issues. The possibility of involving CSOs in the execution of judgments was also introduced, which is important for the execution of some verdicts.

In 2022, the Expert Panel reviewed 14 action plans designed for the execution of the ECtHR's judgments. In this context, we would like to draw attention to our participation in the process of the execution of the judgment in the case *M.H. and Others v. Croatia (Nos. 15670/18 and 43115/18)*, concerning the death of a child after the denial of the possibility to apply for asylum, inadequate accommodation during the application for international protection, and failures in the investigation. We got involved in the process of the execution in the phase of the preparation of the preliminary questionnaire, providing specific proposals, which we further elaborated by submitting proposals concerning the draft action plan, with a focus on the implementation of the general measures. More details about this are provided in the chapter about applicants for international protection and irregular migrants. Also, we delivered our opinion about the draft action plan for the execution of the judgment in the case *Huber v. Croatia (No. 39571/16),* concerning the violation of Article 3 of the Convention caused by inadequate prison conditions. More details about this are provided in the chapter discussing the prison system.

According to the data provided by the Office of the Agent of the Republic of Croatia before the ECtHR, a total of EUR 598,165.38 was disbursed from the state budget in 2022 in respect of fair compensation (judgments, friendly settlements and unilateral declarations).

In the final phase of judgment execution, the Office of the Agent of the Republic of Croatia before the ECtHR submits an action report to the CM. If the CM finds that the state has remedied the failures identified by the judgment, removed the injurious effects suffered by the applicant, and implemented general measures, the CM adopts a final resolution closing the supervision over the execution of the judgment. In 2022, the CM adopted final resolutions closing the supervision over the execution of judgments in the following cases concerning Croatia: *Vuković (No. 47880/14), Brežec (No. 7177/10), Šečić and Škorjanec (No. 40116/02 and 25536/14), Jurčić (No. 54711/15), Čakarević (No. 48921/13), Uzelac and Đekić (No. 6161/13), F.O. (No. 29555/13), Skendžić and Krznarić (No. 16212/08), Jularić (No. 20106/06), Jelić (No. 57856/11), B. and Others (No. 71593/11), M. and Others (No. 50175/12), Milošević (No. 12022/16), V.D. (No. 15526/10), Malafani (No. 32325/15), Štitić (No. 16883/15), Tadić*

(No. 10633/15) and Marunić (No. 51706/11).

More detailed information about the closed supervisions of the said judgments is available on the website of the Office of the Agent of the Republic of Croatia before the ECtHR: https://uredzastupnika.gov.hr/izvrsenje-presuda-europskog-suda-za-ljudska-prava/zavrsne-rezolucije-omve-a-794/794.

2.21. Freedom of expression

This chapter provides an overview of freedom of expression and hate speech, including the speech of public persons and the speech targeting public persons, and the occurrence of various forms of unacceptable speech, especially online, on social media and in the comments under news portal articles, but also in other areas of life. This chapter also presents new developments regarding disinformation and fact-checkers, as well as the freedom of the press and the media, in particular SLAPP lawsuits.

2.21.1. Freedom of expression and hate speech

Freedom of thought and expression is a human right guaranteed by the Constitution and a series of international treaties. However, it is not absolute, but subject to limitations if certain requirements are met.

In 2022, it was very challenging in certain cases to determine the boundary between freedom of expression and hate speech. Each case requires a balancing of the relationship between freedom of expression and hate speech through application of legal tests and standards developed in long-established legal practice. It is necessary to distinguish between speech that constitutes unacceptable but not legally prohibited conduct, which falls within the scope of freedom of expression, and speech that is legally prohibited as a misdemeanor or a criminal act.

In 2015, in its General Policy Recommendation no. 15 on Combating Hate Speech, ECRI stated that "*hate speech entails [...] the advocacy, promotion of or incitement to the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization of or threat to such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or statuses that include "race", skin colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.*"

In 2022, the Committee of Ministers of member states of the Council of Europe defined hate speech as "*all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as "race", colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation.*"

In 2022, hate speech was present in the public sphere in various forms, such as hateful graffiti depicting swastikas or the Ustasha "U," chants by football fans saying "*Dirty Rijeka, you're full of Serbs, don't worry, Rijeka, there are still willows (from which to hang them)*" prior to the final match of the SuperSport Croatian Cup, a job advertisement for a pizza chef stating that they do not want the city to be "*polluted by blacks*," as well as comments regarding the arrest of individuals in Zambia stating, "*It would be even better if we deported them to Zambia to be shot there. I would pay for the bullets personally, and if they don't have volunteers to shoot, I can help with that too. Free of charge and with pleasure*," and so on.

At the same time, efforts to address the issue of hate speech at the EU level have been intensified. In 2022, ministers of justice of EU Member States discussed the EC December 2021 initiative for extending the list of EU crimes under Article 83 of the TFEU to include hate speech and hate crime. According to the Council's announcement, this initiative received majority approval, and work on the proposal continued.

Statements of public figures, especially when made through the media or the Internet, have a more significant impact on the general population compared to the statements made by ordinary citizens. Public figures, members of parliament and other high-ranking officials, although some of them have immunity protecting them from any potential lawsuits and prosecution, have particular social responsibility because their public statements reach a large number of people. By expressing themselves inappropriately, they send a message to citizens about the acceptability of such communication and normalise it. However, precisely because of their influence, public figures should publicly condemn instances of hate speech and thereby send a message about its unacceptability.

Progress has been made by adopting the Code of Conduct for members of the Government and certain high-ranking officials, as well as the Code of Ethics for members of the Croatian Parliament. The Code of Conduct for members of the Government stipulates the general principles of conduct related to, for example, conflict of interest or combating corruption, while the Code of Ethics for members of the Croatian Parliament likewise emphasises the prohibition of violent behaviour in both private and public actions of members of the Parliament, the prohibition of spreading hatred, intolerance and discrimination, as well as of the incitement to violation and actual violation of human rights. The adoption of these Codes is welcomed, but it is necessary to monitor their application in practice.

Hateful content continues to be the most prevalent on social networks. The EC adopted the Code of Conduct on Countering Illegal Hate Speech Online back in 2016, in order for IT companies to regulate this phenomenon on their online platforms by establishing clear and effective reporting procedures, content review and its potential removal. The results of the seventh evaluation concerning the implementation of the Code indicate that 63% of illegal content is removed from social networks, which is nearly the same as in 2021, but lower than in 2020, when 71% of such content had been removed.

Amendments to the EMA were adopted in 2021 in order to rid the media landscape of illegal content, even when it is not produced by the media outlet itself. Despite these amendments, illegal content remained present in the comments sections under articles published by electronic publications during 2022, and some of it migrated to social networks as well. The EMC oversees the implementation of the EMA, but it does not censor electronic media nor does it have the capacity for independent active

monitoring of all electronic media outlets. The EMC is authorised to consider citizens' complaints, conduct procedures for granting and revoking concessions, issue warnings in case of non-compliance with legal provisions and secondary legislation, file motions to indict, as well as monitor the portals' obligations to register persons leaving comments by establishing their identities, to moderate comments sections under articles and to remove user-generated content in a timely manner. Users who have been harmed by such publications may seek compensation primarily from the person who left the comment, and only alternatively from the service provider if it failed to register the person who left the comment in a way that establishes their identity.

In certain cases, media outlets themselves produce illegal content. For instance, the EMC found a violation in the case of an electronic media outlet that published an article entitled "*Although not a single Roma person lives there, residents of Sveta Marija see garbage in nature every day*." As a result, the EMC found a breach of the portal's duty to take measures in order to prevent the publication of content that incites criminal acts related to racism and xenophobia, as referred to in Article 125 of the CC, and the media outlet was issued a warning.

Furthermore, in 2022, the EMC imposed 39 measures on electronic media outlets, of which 19 were imposed on television broadcasters, 18 on electronic publication providers and two on radio broadcasters. Of these measures, 35 were warnings, one was a misdemeanour warrant/motion to indict, and one was a permanent revocation of concession. It does not arise from the provided data that any of the above sanctions were imposed on publishers/broadcasters for the failure to remove user-generated content or for improper user registration.

Unacceptable and illegal expression can be found in various areas of social life.

Various posts were published in the media related to the repeal of the parent-educator measure, where the comments sections contained various forms of unacceptable speech, including the use of terms such as "*spawn*," "*breeder fee*," "*breeding*," "*bunch of parasites*" and so on.
This shows that there is still insufficient awareness regarding how to discuss certain topics, by respecting the opinions and choices of others, especially when it comes to children.

Recommendation 116

For the Office for Human Rights and Rights of National Minorities to: devise and implement a media campaign aimed at raising awareness about unlawful speech in public spaces, particularly on social media

A racist advertisement was posted on a social network, seeking "normal" employees in contrast to those of a specific ethnic, national or racial origin. Such conduct constitutes direct discrimination in the area of employment under the ADA, even if there was no specific victim, since such an advertisement deters candidates of "undesirable" ethnic, national or racial origin from applying for the advertised job. Additionally, this advertisement spreads unacceptable speech toward certain groups in the public sphere.

The advertisement faced widespread public condemnation, and we are increasingly witnessing non-institutional forms of public resistance to unacceptable forms of expression and messages, which can have concrete consequences. This resistance is evident through counter-speech and counter-actions, such as users leaving negative ratings and comments on restaurant review platforms, which occurred in the above case. Citizens also reacted negatively to an album containing lyrics with elements of hate, released by a band in 2022.

Negative reactions from the public influenced the record label, which apologised and withdrew the controversial album from sale and removed it from digital streaming services, as well as terminated its contract with the musicians.

Actions such as boycotting products and services, influencing the termination of business partnerships, refusing to sell certain products, engaging in rating campaigns to devalue a specific service or product, etc., are forms of expressing dissatisfaction with public discourse and can be categorized under the term cancel culture. Through these actions, citizens take matters into their own hands, without waiting for a response from state institutions. While this resistance to unacceptable expressions can be seen as a civic reaction in a space fraught with unacceptable content, it is important to consider the potential harmful consequences of such actions as well.

The use of the salute "For Homeland – Ready" was considered in previous reports, and this salute was also present in the public sphere in 2022.

The MI initiated five misdemeanour proceedings based on Articles 5 and 6 of the AOPOP, and two proceedings based on Article 4 of the Act on the Prevention of Disorder at Sports Competitions.

In 2022, the HMC of the Republic of Croatia issued a judgment regarding the use of the salute "For Homeland – Ready." The HMC upheld the first-instance judgment, in which the defendant was found guilty of committing an offence under Article 5, paragraph 1 of the AOPOP. As a result, a fine was imposed on the defendant, and the defendant's cap with the inscription "CROATIAN DEFENCE FORCES – FOR HOMELAND – READY" was permanently confiscated.
In the reasoning of the verdict, the HMC emphasised that freedom of expression is not unconditional and that its exercise entails duties and responsibilities such as those that are necessary for maintaining public order or preventing disorder and crime.

The Court stressed that this salute is rooted in racism and that it "*symbolises hatred toward people of different religious and ethnic backgrounds, manifests a racist ideology and disparages the victims of crimes against humanity*." Furthermore, the Court pointed out that Article 18, paragraph 2 of the Public Assembly Act prohibits assembly participants from wearing uniforms, parts of uniforms or other symbols that incite war or violence and promote intolerance.

The above judgment followed a series of prior decisions, including decisions of the Constitutional Court and the 2019 decision of the HMC concerning the unlawfulness of this salute, which contrast with the 2020 decision of the HMC. The 2022 judgment of the HMC confirmed that the existing legal framework is sufficient for prosecuting different manifestations of this salute (in the form of songs, graffiti, posts, chants, etc.).
However, it is necessary for all competent authorities to act uniformly and for court proceedings to be initiated systematically, with sanctioning of the salute.

Recommendation 117

For the Ministry of the Interior and the General Police Directorate to: ensure that the police act uniformly regarding the public use of the salute "For Homeland – Ready" based on the Act on Offences against Public Order and Peace.

Recommendation 118

For the Ministry of the Interior to: draft a proposal concerning amendments to the Act on Offences against Public Order and Peace that will more clearly define the prohibition of public use and displaying of symbols of hatred, as referred to in Article 5 of the Act, and to impose stricter penalties for this offence

At the same time, the AOPOP stipulates excessively low penalties for public use and displaying of symbols of hatred. Penalties for these types of offences currently range from 20 to 150 euros, which does not pose a significant threat to offenders. Thus, in order to achieve its purpose, the sanctioning has to become stricter. Higher penalties are needed for the purpose of specific and general prevention, in order to send a clear message to both offenders and the public about certain actions being punishable. Additionally, for the purpose of greater legal certainty, in addition to amending the range of penalties, amendments should likewise include more detailed provisions on the prohibition of public use and displaying of symbols of hatred under Article 5 of the AOPOP, as well as specify that this also includes hate speech on the internet, including on social networks. This would send a clear and unambiguous message about the prohibition of public expression of hatred.

2.21.2. Disinformation and fact-checkers

According to the Eurobarometer survey and the AEM study on strengthening the society's resilience to disinformation, Croatian citizens' trust in the media is among the lowest in the EU. When the war in Ukraine started, a series of unverified and false information emerged in the public sphere, which could additionally unsettle citizens and cause feelings of fear and panic. Recognising the harmfulness of such posts, one portal later published corrections to its own news about the war, indicating that such self-corrections would be published periodically; however, this did not occur. The practice of regular self-corrections, without the intervention of fact-checkers or citizen requests for correction of published information, would represent a positive step towards strengthening trust in the media.

In 2022, the EC strengthened the 2018 Code of Practice on Disinformation, which serves as an essential tool in combating the spread of disinformation. The updated Code establishes comprehensive and precise obligations for platforms with the aim of creating a safer online environment, and it strengthens self-regulatory standards, such as the establishment of a Transparency Centre and the possibility of assessing fact-checkers' reports, among other measures. So far, 34 signatories have signed up for the Code, including Meta, Google, Twitter, TikTok, Microsoft, as well as fact-checkers, representatives of civil society and others. The intention is for this Code, together with the Digital Services Act, to contribute to addressing systemic threats to democracy posed by information manipulation and disinformation in the coming period.

In her address at GONG's international conference "European Perspectives: The Impact of Disinformation on the Health of Democracy and the Digital Environment," Věra Jourová, Vice-President of the EC and Commissioner for Values and Transparency, emphasised the need to be careful in the fight against disinformation so as not to undermine freedom of speech. At the same time, she highlighted that disinformation poses a substantial threat to democracy and can be used to divide the public, manipulate and attack the legitimacy of democratic institutions. To support her statements, she provided examples of information manipulation linked to the war in Ukraine and during the COVID-19 pandemic.

According to the data of the Ministry of Culture and Media, Croatia plans to establish a network of fact-checkers to verify the factual accuracy of statements made in the media. A budget of HRK 45 million has been allocated for this purpose in the National Recovery and Resilience Plan 2021–2026. This initiative is a result of cooperation between the Ministry and the media sector, and the aim of such a network is to promote investigative journalism, publish verified and accurate information and reduce the spread of disinformation.

2.21.3. Press freedom and media

As part of the process of the drafting of the National Culture and Media Development Plan from 2022 to 2027, the adoption of which is planned for Q1 2023, the Ministry of Culture and Media published an Analysis of the Media Sector in Croatia. One of the specific goals of the Plan is to improve the status of the journalism profession, enhance the media system and promote pluralism. However, the CJA points out that the Analysis does not cover the entire media landscape, that support for non-profit media has been neglected, that not all forms of pressure on journalists are recognised, and that the challenges of dual liability of journalists (criminal and civil) are not fully addressed, particularly when it comes to SLAPP lawsuits in which judges are the plaintiffs.

In 2022, the EC adopted the European Media Freedom Act, which introduced new rules to protect media pluralism, editorial independence, promote media independence and transparency of media ownership. It likewise established measures to protect independence of editors and disclose conflicts of interest, and included safeguards against political interference. Furthermore, a package of digital service regulations was enacted, including the Digital Services Act and the Digital Markets Act, the aim of which is to equip the EU for the digital age by regulating digital services, including social networks, online marketplaces and other platforms operating within the EU.

The EC likewise initiated the adoption of the Anti-SLAPP Directive, which covers civil lawsuits with cross-border implications. The Directive includes the development of mechanisms to combat SLAPP lawsuits, such as the speedy dismissal of manifestly unfounded claims and dissuasive penalties for initiating malicious lawsuits. In the 2022 Rule of Law Report, the EC issued five recommendations for Croatia, one of which requires Croatia to address the issue SLAPP lawsuits against journalists. This includes addressing the abuse of legal provisions on defamation and encouraging awareness, taking into account European standards on the protection of journalists. The recommendation from April likewise requires the amendment of norms to ensure procedural safeguards for the early dismissal of manifestly unfounded lawsuits.

In line with these efforts, the Ministry of Culture and Media established a Working Group on the formulation of policies to combat SLAPP lawsuits, in which we are also involved. One of the goals of the Working Group is to educate judges, lawyers, journalists and publishers in order to prevent SLAPP lawsuits. For that purpose, workshops were conducted in Split, Osijek and Varaždin in 2022. Other goals include analysing the current situation, collecting data, raising awareness about this issue and formulating proposals for future anti-SLAPP legislative measures. According to the MCM, implementing a mechanism for early identification and dismissal of SLAPP lawsuits is planned in the new Media Act.

According to the CJA, journalists are not in an equal position in legal proceedings where they are being sued by judges, as the fact that the judges are from the highest courts may influence the impartiality of the deciding judge. Such concerns were raised in the case of an editor and journalist of an independent portal who was sued over an opinion column in which she wrote about a judge of the highest court. In the lawsuit, compensation of HRK 150,000 was sought for damages, and after five years of litigation, the plaintiff was awarded an amount of HRK 50,000 for mental anguish.
According to the case-law of the Constitutional Court of Croatia and the ECtHR, this amount is considered sufficient. However, even this amount can pose a business threat to small, non-profit media outlets and have a chilling effect on future journalistic activities. Although the above amount was raised through citizen donations, the opinion column was discontinued.

According to data compiled by the CJA within the Safe Journalists network, 14 attacks on journalists were recorded in RC in 2022. These attacks included five death threats or threats of serious bodily harm, seven other threats, as well as one physical and one hacking attack on a media outlet. It is also noted that a significant number of criminal offences against media professionals, such as threats, go unreported.

The signing of the *Protocol on Police Procedures in the event of criminal offences committed against media professionals in relation to their performance of media activities*, as well as the *Protocol on Police and Media Professionals' Procedures at public gatherings of significant public interest*, is a positive step, as is the signing of the *Agreement on Cooperation* between the MI, the CJA and the Trade Union of Croatian Journalists.

When it comes to improvement of the status of the journalistic profession, it is important to have in mind that atypical forms of work are prevalent in journalism. According to the International Federation of Journalists, atypical work in the media industry includes "forms of employment that are not permanent and/or are part-time." This includes work based on short-term contracts, subcontracting, occasional and freelance work. Research conducted by the Trade Union of Croatian Journalists shows that 53.3% of so-called media freelancers have a university degree. The majority of them (34.1%) earn a monthly net salary ranging from HRK 4,000 to HRK 8,000, while 31.1% earn between HRK 0 and HRK 4,000. Furthermore, 38.5% of the respondents work based on work-for-hire contracts, temporary service contracts or other forms of freelance contracts for periods exceeding one year, and for 29.6% of the respondents, such contracts were the only form of employment, as their employers did not offer them alternative contracts.

2.22. Public assembly

The right to assembly is one of the fundamental human rights closely related to the right to freedom of expression, through which political, social and national beliefs and goals are promoted. The Constitution and the ECHR protect peaceful assembly. According to the ECtHR and the Constitutional Court[xxi], an assembly will not be considered peaceful if it is organised with the intention of committing or inciting violence, disturbing public order or if participants engage in violent acts during the assembly.

Public assembly, even when participants do not have violent intentions, can sometimes pose a threat to public order and peace. Therefore, organising public gatherings requires coordination with the competent institutions regarding timing, location, traffic regulation and other factors. These issues may include ensuring the safety of both participants and non-participants, managing traffic disruptions, and even addressing potential economic losses that may affect those impacted by the assembly. The requirement of prior notification does not constitute interference with the right to assembly. Instead, it enables timely measures to be taken to ensure the peaceful nature of the assembly.

It is important to allow citizens to exercise their right to hold counter-protests, since this enables society to hear different perspectives. The state has a positive obligation to protect the right to freedom of assembly for both groups and to find the least restrictive means that would allow both gatherings to be held. ECtHR emphasises that the mere existence of a risk of conflict between opposing groups is not sufficient to justify the prohibition of an event. Instead, specific assessments should be made regarding the potential scale of the risk of violent clashes.

According to media headlines, several protests of workers in both the public and private sectors were held in 2022. Employees of public services, kindergarten teachers, teaching assistants and municipal workers took to the streets, requesting better working conditions and higher wages. Doctors requested a quality healthcare reform, aiming to improve the status of patients and doctors. Railway workers demonstrated to preserve their jobs, while employees of bankrupt employers demanded their severance payments. People with disabilities and parents of children with developmental disabilities protested against the new Personal Assistance Act. Citizens expressed their disagreement with illegal construction on the coast and the destruction of the shoreline, culminating in protests in early 2023 regarding the proposed new Act on Maritime Domain and Seaports. Residents of Zagreb protested against the waste disposal methods, calling for the closure of landfills. There were also protests in which dissatisfaction was expressed regarding the slow reconstruction efforts following the devastating earthquakes that occurred in 2020. Public gatherings were held where participants advocated for green transition and the cessation of fossil fuel exploitation (Climate March), and highlighted the issue of femicide (Night March). The Pride March, March for Life, March for Freedom and gatherings of Catholic men praying in town squares were likewise held.

Protests against measures taken to combat the spread of the COVID-19 pandemic, which had greatly marked the previous two years and which had been discussed in more detail in previous reports, continued throughout 2022, although to a significantly lesser extent. On 15 January, protests organised by the initiative "Slobodni Zajedno" ("Free Together") against COVID certificates took place in 15 cities. In February, protests against the decision of the MSE concerning mandatory testing of children in schools were held in Zagreb, in front of the CIPH building, and in other towns, in front of county and municipal buildings. Following the protests held in November and December 2021 in Zagreb and other towns against the so-called COVID measures, we continued to monitor the misdemeanour court proceedings initiated against the organisers of such gatherings. Based on available court decisions, the courts fined the protest organisers for offences under the Public Assembly Act, for failing to notify competent authorities of the gatherings and for failing to take measures to ensure public order and peace. Since the participants failed to comply with the epidemiological measures of mandatory mask-wearing in outdoor spaces, where it was not possible to maintain a physical distance of at least 1.5 meters due to the large number of people that were gathered, the courts considered such actions as a misdemeanour of disrupting public order and peace under the Public Assembly Act.

In 2022, the court fined the organiser of the protests that had taken place in November 2021 at the Sveti Marko Square in Zagreb. In addition to the gatherings not being properly registered and the participants not complying with epidemiological measures, the court likewise stated that there was a conscious violation of the prohibition on holding protests within a distance of less than 10 meters from the Croatian Parliament and the Government of the Republic of Croatia, or within 20 meters from the Constitutional Court. The prohibition on gatherings at the Square, where the most important state institutions are located, is prescribed by the Public Assembly Act. Since October 2020, citizens have been restricted from accessing the fenced-off area of the Square for security reasons. Although it is possible to hold peaceful assembly and public protests at the Sveti Marko Square under certain conditions, GONG has raised concerns about the restriction of access to the Square, claiming that it discourages the organisation of protests there and advocating for its opening.

Since 2020, we have been monitoring the actions of competent authorities toward participants in counter-protests that took place at the same time as the public gatherings they opposed. The police intervened and halted the performance of participants in the counter-protest due to concerns about potential conflicts between the participants of the two gatherings. They also filed a motion to indict

against two individuals for failing to register the public gathering. Without a public hearing, the court made a decision regarding the offence, stating that the motion to indict was based on direct observations by authorised officials, i.e., police officers.

In regard to restrictions on public gatherings during the pandemic, ECtHR issued its first decision in the case of *CGAS v. Switzerland* (21881/20), in which it found a violation of the right to freedom of assembly. At the beginning of the pandemic, from mid-March to the end of May 2020, Switzerland introduced an absolute ban on public gatherings. The Court, with a majority of four votes to three, with three separate opinions, determined that such a restriction was not proportionate. During a period of 10 weeks, which the majority of judges considered a significant duration, the organisation or participation in public gatherings was fully prohibited under threat of criminal prosecution, and a remedy could not be sought through legal proceedings.

In 2022, ECtHR issued a decision regarding the application in the case of *Magdić v. Croatia* (17578/20), in which the applicant claimed that his rights to freedom of religion, freedom of movement and freedom of assembly were violated by the decisions of the Civil Protection Headquarters. ECtHR declared the application inadmissible, stating that the applicant failed to demonstrate how exactly the measures implemented by the Civil Protection Headquarters directly affected or could have affected him. Therefore, he could not be considered a victim of violation concerning his rights guaranteed under the Convention.[xxii]

2.23. Right to privacy and impact of AI on human rights

Right to privacy

Modern technologies bring a range of benefits to everyday life; for example, they improve availability of services, speed up communication and introduce new methods of education. However, they can also represent potential danger in the form of violating or compromising the right to privacy, which is not always easy to identify.

A concerned citizen contacted us in regard to the invasion of his and his family's privacy, as an unknown person flew a drone over their yard, thus gaining unauthorised access to their home. We requested information from the Croatian Civil Aviation Agency (CCAA) about the mechanisms for protecting citizens in such situations. The CCAA stated that citizens can report illegal drone operation to them and the police for the purpose of identifying and sanctioning the perpetrators. The CCAA informed us that in 2021 and 2022, they received 29 reports of possible illegal drone operations, resulting in 11 misdemeanour warrants, 10 warnings and one motion to indict. There were no grounds for action in relation to seven of those reports. According to data from the MI, 360 privacy-related criminal offences were recorded in 2022. However, it is not clear how many of them pertained to potential violations of the right to privacy as a result of the use of drones. Therefore, it is necessary to systematically inform citizens about the possible violation of the right to privacy through the use of drones and the ways to report such incidents to the competent authorities.

Citizens have likewise contacted us regarding violations of their right to privacy by banks requesting extensive information about their financial status and sources of income during the implementation of the so-called customer due diligence, as mandated by the Anti-Money Laundering and Counter-Terrorism Financing Act. Some complainants, mistakenly identified as politically exposed persons, were asked to provide additional information about the origin of their assets, family or social relationships, as well as decisions on inheritance or sale and purchase agreements.

Complainants who did not provide the requested documents and information had their accounts blocked, and supervision by the CNB revealed errors in the banking system. Therefore, it is crucial to carefully carry out the customer due diligence procedures, as such banking errors may jeopardise the livelihood of citizens by hindering their access to the funds in their accounts.

Violations of the right to privacy can be prevented in the course of adoption of acts and other legislation. During the public consultation on the Draft Proposal of Amendments to the Labour Act, we provided our opinion regarding the provision allowing employers to enter the homes of remote workers. We emphasised the need for assessment of proportionality regarding the proposed provision and the consideration of less invasive ways for employers to fulfil their obligations regarding equipment maintenance and ensuring adequate working conditions, in cases where the worker's home is also their remote workplace. The proposal was not accepted.

During the public consultation concerning the proposed Act on Amendments to the International and Temporary Protection Act, we provided our opinion on the provision that requires applicants for international protection to allow their computers, other electronic devices and personal belongings to be searched through the use of software technologies (using various computer programs and applications) for the purpose of verification and determining their identity. We emphasised the need for a proportionality test to be conducted in order to achieve a balance between the purpose of the provision and the means by which it is achieved. We proposed that the explanation of the proposal of the Act clarify the purpose and legal basis for encroaching on privacy by collecting a larger scope of data than necessary to assess the merits of the application for international protection. As a result, the final proposal of the Act defined in more detail that the search will only be conducted when it is not possible to use other means to establish identity and country of origin of the applicant for international protection, and only with their explicit consent.

Artificial intelligence

In everyday life, the use of algorithms and computer systems based on artificial intelligence (AI) is becoming increasingly common, and it will certainly be even more common in the future. However, initiatives to regulate the use of AI, in order to prevent negative impacts on human rights and equality, are still underway. At the EU level, the process of adopting a Regulation on AI is currently underway, while within the CoE, a draft Framework Convention on AI, Human Rights, Democracy and the Rule of Law is being developed.

The year 2022 was marked by the continuation of negotiations on the Regulation on AI, with the majority of disputes revolving around the definition of AI, the scope of application of the Regulation and the list of high-risk systems. At the invitation of the MESD, we provided our opinion on the second compromise proposal of the Regulation, focusing on the impact of AI on human rights and equality, as well as discriminatory effects, highlighting measures that may prevent negative impacts. Furthermore, through the European Network of National Human Rights Institutions (ENNHRI), which has observer status at the CAI of the CoE, we provided our opinion on the draft Framework Convention being prepared by the CoE, emphasising the need for transparency of such systems and the importance of establishing supervision over the implementation of the Convention.

Although EU Member States were supposed to develop national strategies for AI development by the end of 2019 based on the 2018 Coordinated Plan on AI, Croatia has not yet done so. The working group responsible for developing the national strategy, of which we are a member, did not hold any meetings in 2022.

Recommendation 119

For the Ministry of Economy and Sustainable Development to: create a National Plan for Development of Artificial Intelligence

The use of AI is possible in various areas of life, including employment, work, healthcare, public administration, combating disinformation and hate speech, etc., both in the private and public sectors.

Considering the advancements that AI can bring to the healthcare system, as part of the Digital Europe programme, coordinated by the Ruđer Bošković Institute, the EC approved funding for the AI4HEALTH.Cro project – AI for Smart Healthcare and Medicine, which was initiated in January 2023. The project partners include the private business sector, the academic community, the public sector and regulatory bodies, and the project aims to contribute to the development of efficient and resilient digital solutions in the healthcare system. The AI4HEALTH.Cro centre will serve as a unique platform and a "one-stop-shop" for providing comprehensive support to users in all stages of development, from pre-investment testing to deployment, in acquiring new skills and competences, facilitating financing and strengthening their role in the innovation ecosystem, as well as networking and cooperation at the European level.

In Croatian public administration, projects are currently underway to introduce AI for the purpose of improving search engines and developing automation regarding document analysis, which will improve and facilitate their searchability and accessibility. In 2022, the MJPA initiated a procurement procedure for a centralised selection system aimed at fully digitising the recruitment process in the civil service. As the working methodology of the system and the criteria for algorithmic decision-making in candidate selection are not yet known, we will continue to monitor its implementation, especially considering that according to the 2021 Proposal for a Regulation on AI of the EC, candidate evaluation systems in employment are categorised as high-risk. Therefore, before putting them into operation, it is necessary to carefully assess and prevent potential negative consequences regarding human rights and equality.

The process of recruitment is becoming more complex as work is increasingly being performed remotely and workers are being hired through the internet, without personally meeting with the prospective employer. The EU project FINDHR[xxiii], led by a multidisciplinary team of experts coordinated by the University of Barcelona, aims to develop a system for algorithmic hiring of the best candidates without discrimination. The project is meant to provide a fair ranking system, tools to reduce the risk of discrimination, technical guidelines for assessing performance and algorithm-based control, as well as a guide for developing such AI software. Specialised training will be designed for programmers and AI system auditors, and after the project's completion, the publications, software and teaching programs will be made available to the public free of charge. Therefore, the results of this project should also be significant for national bodies that intend to use such candidate selection systems.

Automatic systems, including AI, can be a useful tool for detecting hate speech or fact-checking accuracy of information. While identifying disinformation poses several challenges, a positive example of AI use is the development of computer systems dedicated to fact-checking for more effective combating of disinformation, specifically intended for use in the Croatian language. Within the NNRP[xxiv], the project "Establishment of Fact-Checking in the Media and of a Public Data Disclosure System" was presented, with the aim of developing a mechanism for promoting professional

journalism. The project also presented the research results of the Text Analysis and Knowledge Engineering Laboratory (TakeLab) at the Faculty of Electrical Engineering and Computing in Zagreb. Since the currently available tools do not address all challenges and are not tailored to the specificities of individual languages, TakeLab intends to develop an efficient text analysis system adapted to the specificities of the Croatian language, with the aim of preventing the spread of disinformation.

However, besides the benefits of speeding up and simplifying processes, AI also carries risks.

Certain countries that have implemented AI systems for the purpose of speeding up and/or facilitating decision-making in the public sector have also witnessed serious flaws in such systems. Government bodies that adopt AI systems usually procure them from third parties, without knowledge of which data the system uses and how, which can have a negative impact on citizens' rights. For example, according to reports of the media and CSOs, recently an act was passed in Serbia, currently under constitutional review, which introduced an automatic approval system for social benefits. The algorithm used personal data from various registers, including data on ethnicity and socio-economic status of citizens. As a result, a large number of individuals, especially Roma people, were denied social assistance because the algorithm concluded that they generated income by collecting secondary raw materials. A similar automated decision-making system for approving social assistance was introduced in the Netherlands in 2014 to prevent fraud. For more than six years, the system operated in such a way that individuals living in impoverished neighbourhoods were sometimes incorrectly identified as high-risk for committing fraud, using vast amounts of data from several government registers, with dual citizenship and low income being marked as significant risk indicators. Citizens were unaware of how their data were being processed, and there were insufficient safeguards within the system. Due to the unclear functioning of the algorithm and the ethnic and socio-economic profiling of citizens, which can lead to discrimination, the court ruled that the use of this system was not permissible, and the government resigned.

Recommendation 120

For the Ministry of Economy and Sustainable Development to: establish a register of AI systems being used in the public sector

Considering the impact of the public sector on the exercise of citizens' rights, it is particularly important that the introduction of AI in the public sector be carefully planned. Moreover, it should be transparent, which means that citizens should be informed that systems are using AI.

Workers employed through digital labour platforms also face challenges when it comes to the use of AI. For example, in Italy, a court concluded that a platform discriminated against workers by assigning them less desirable and more distant rides if they had been absent from the app for a period of time, even where this was due to health reasons. Similar issues have been raised by platform workers in Croatia. This shows that while digital tools and technological solutions can be beneficial, systems must be transparent. It should be clear how the system makes decisions, which data it processes, and what the risks are, in order to address them in a timely manner. To address these concerns, in the e-consultation on amendments to the Labour Act, we proposed transparent procedures for digital labour platforms and aggregators in employment and assignment of tasks to platform workers. More information on this topic can be found in the section on the right to work.

An increasing concern is the issue of liability for damage caused by the use of AI, for example if an autonomous vehicle causes an accident or if a doctor reaches an incorrect conclusion due to relying on an automated diagnosis system. As a result, the EC introduced a new AI Liability Directive in 2022

in order to simplify the burden of proof for the injured party if the damage was caused by software updates or by AI.

In cases involving high-risk AI systems, the injured parties will have access to relevant data owned by the company and/or the supplier, and they can then file a claim for damages based on the presumption of causality, without having to prove that the damage was caused by an error or omission of the AI system.

In any case, in the implementation of new technologies, education of all stakeholders involved in the development, implementation and use of digital systems is crucial, particularly with regard to their impact on human rights and equality. To raise awareness about the presence of risks, the impact of AI on human rights and discrimination, we held a lecture focusing on these issues at the Faculty of Electrical Engineering and Computing (FER) to students enrolled in the Introduction to AI course. We also delivered a lecture to students of the Legal Clinic at the Faculty of Law in Split, addressing the impact of modern technologies using AI on the right to privacy and personal data protection.

2.24. Human rights defenders

In the year in which this Report is submitted, we will commemorate the 25th anniversary of adoption of the UN Declaration on Human Rights Defenders, a document that defines them as "individuals or groups who act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms through peaceful means." The term "human rights defenders" encompasses activists, CSOs, journalists, whistleblowers, as well as national human rights institutions and equality bodies. The Declaration recognises their key role in the realisation of human rights as guaranteed by the UN Universal Declaration of Human Rights, and it outlines the rights of human rights defenders on the one hand and the obligations of states in ensuring the conditions for their work on the other hand.

In 2022, a UN Special Rapporteur on environmental defenders was established as a "rapid response mechanism" to protect them from harassment, penalisation or persecution.

In addition to the UN, the contribution of human rights defenders has also been recognised by regional human rights protection systems, including: the CoE, the OSCE and the EU.

The EU has recognised the importance of CSOs as human rights defenders in a series of its recent strategic documents, such as the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, the European Democracy Action Plan and the Rule of Law Report of the EC. The EC's 2022 report on the application of the Charter of Fundamental Rights in the EU was dedicated to civil society and other human rights defenders, such as independent human rights institutions, ombudsman institutions and equality bodies. In March 2022, the European Parliament adopted a Resolution on the shrinking space for civil society in Europe, reaffirming the key role that CSOs have in the realisation and protection of the values on which the EU was founded. The space for CSOs is recognised as an integral element of democracy, the rule of law and fundamental rights. It is emphasised that in order for CSOs to thrive, the environment must be enabling and safe. The document highlights the states' legal obligation to ensure an enabling environment for civil society to operate. It calls on the European Commission to adopt a comprehensive civil society strategy within the EU and to introduce an index for monitoring the state of civil society, among other things. The Conference on the Future of Europe also called for the adoption of an EU civil society strategy and the introduction of an index to monitor its state.

Human rights defenders face various obstacles in their work, as has been highlighted in the reports of

the EU Agency for Fundamental Rights (FRA) for years. These obstacles can range from limited access to funding and participation in public decision-making to threats to their personal security.

These obstacles are recognised in the above European Parliament Resolution and the EC's report on the application of the Charter of Fundamental Rights. According to the latter, 61% of the consulted CSOs have encountered obstacles that restrict their activities. Specifically, 44% of CSOs reported experiencing verbal attacks, harassment, intimidation or smear campaigns; 18% experienced the criminalisation of their work; while 15% reported physical attacks or damage to their property. Other obstacles that CSOs have mentioned include being excessively overburdened with administrative work, SLAPP lawsuits and a lack of financial resources.

In recent years, Croatia has been experiencing the shrinking of space for civil society. This is indicated by CIVICUS Monitor[xxv], a network that regularly monitors the state and conditions for operation of civil society worldwide, as well as by the CERANEO CSO Sustainability Index for RC and the EC Rule of Law Report for the EU.

To enable CSOs to operate successfully, it is crucial to provide them with an appropriate normative framework, financial resources, access to participation in decision-making processes, as well as a safe working environment.

Recommendation 121 (reiterated)

For the Government of the Republic of Croatia to: adopt a National Plan for the Creation of an Enabling Environment for Civil Society Development

Recommendation 122

For the Office for Human Rights and Rights of National Minorities and for the Office for Cooperation with NGOs to: provide long-term institutional and programmatic funding for activities of civil society organisations working on protecting and promoting human rights and combating discrimination

Although its drafting started in 2021, Croatia still lacks a fundamental strategic document for civil society activities, as noted by the EC in the Croatia chapter of its 2022 Rule of Law Report. Therefore, we reiterate the recommendation concerning the adoption of such a document. Additionally, the proposed National Plan for the Protection and Promotion of Human Rights did not recognise CSOs working on protecting and promoting human rights as well as combating discrimination as human rights defenders, which was our recommendation. In addition to the normative framework, an institutional framework is crucial for effective cooperation with civil society. In this sense, CSOs have evaluated the cooperation between representatives of institutions and CSOs as more difficult in the last few meetings of the Council for Civil Society Development.

The share of lottery funds for financing CSOs in 2022 amounted to 10.65%, which did not reach the share from 2015. In 2016, a significant decrease of the share of lottery funds allocated for the development of civil society occurred. In 2015, it amounted to 14.21%, but in 2016, it was decreased to 6.88%. From 2017 onwards, it has been increasing, but it has not yet reached the value from 2015.

In addition, CSOs regularly point to issues with delays in publication of calls for tenders, lengthy project selection processes and delays in disbursing funds, the lack of calls for tenders in certain activity areas, such as promoting and protecting human rights, combating discrimination, watchdog and advocacy activities, as well as continuous increase of the administrative burden. For instance, the call for tenders "Strengthening CSO Capacities to Respond to the Needs of the Local Community" (commonly known as the "COVID call") was published in December 2020, nine months after the start of the pandemic, and the funding decisions were only announced in July 2022. In addition, CSOs report that despite numerous criticisms, the practice of allocating funding to project proposals based

on the order of submissions (commonly known as the “fastest finger”) continues.

This method not only fails to consider the quality of the project proposal as the primary selection criterion, but can also disadvantage those who have limited access to physical mail or the internet due to their location or socio-economic reasons.

CSOs have also raised concerns about the lack of transparency in the allocation of business premises owned by the Republic of Croatia for lease to certain civil society organisations. Although lease agreements for business premises are concluded for a fixed term, some premises are not subject to calls for tenders and they are allocated in a non-transparent manner. Consequently, the differences in working opportunities among CSOs are created, which hinder the exercise of the right to freedom of association. Therefore, it is necessary to ensure equal opportunities for CSOs and to clearly define criteria for the allocation of business premises for lease, as well as for the allocation of funds required for their operation.

The right to participate in decision-making is codified in a series of international instruments, such as Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights. The opportunity for participation ensures that decision-makers have more complete information reflecting the diverse needs of different stakeholder groups that may be included in the process. This can result in higher-quality decisions over which recipients feel a greater sense of “ownership”.

However, for many years, CSOs have reported difficulties and obstacles in this area, assessing their involvement in decision-making processes as more of a formality than a dialogue and collaboration. Specific highlighted shortcomings include short deadlines in public consultation processes, insufficient transparency in the appointment of CSO representatives to working bodies, as well as limited opportunities for CSOs to participate in the work of the bodies of which they are members. For example, public consultations on the Operational Programme Competitiveness and Cohesion 2021–2027 and the Integrated Territorial Programme 2021–2027, which are crucial documents for the allocation of funds from the European Regional Development Fund and the Cohesion Fund, lasted only 15 days. Likewise, the e-consultation on the Croatian Fisheries Programme, which is of interest to environmental organisations, lasted only nine days.

In the Report by the Human Rights House on human rights defenders, it is stated that CSOs face pressures, intimidation and threats directed at them through phone calls, anonymous letters, social media and comments on web portals. According to the Report, the work of human rights defenders dealing with the rights of national minorities, migrants, women, LGBTIQ+ individuals and victims of gender-based violence, as well as of those dealing with facing the past is especially discredited.

Some CSOs working with migrants still report being denied access to certain locations. They state that they do not have access to reception centres for applicants for international protection, the Ježevo Reception Centre and the transit-reception centres in Croatia, despite being organisations that provide free legal aid. Moreover, according to CSOs, no CSO providing free legal aid has been allowed to be present at the Porin Reception Centre for asylum seekers since the start of the pandemic, even though the seekers have expressed a need for it.

In September 2022, the High Administrative Court issued a second-instance judgment against an asylum seeker whose asylum status had been revoked by Croatia; the asylum seeker was also the partner of a human rights activist for asylum seekers. As a result, his attorney filed a constitutional complaint.

The practice of filing SLAPP lawsuits against environmental organisations and civic initiatives continues. In September 2022, the media reported on a lawsuit filed by a hotel investor in Valkane, Pula, against several members of the "Referendum for Lungomare" Initiative. More detailed information about the obstacles faced by environmental defenders of human rights is provided in the chapter on the right to a healthy life and a healthy environment.

On the other hand, in 2022, in addition to their regular activities, CSOs, civic initiatives and platforms provided assistance to citizens affected by the devastating earthquakes in the SMC and to people displaced from war-torn Ukraine.

Independent national human rights institutions (NHRIs) and national equality bodies (NEBs) are also considered defenders (and protectors of defenders) of human rights. In Croatia, the Ombudswoman is the mandate holder for both. At the international level, within the UN, the CoE and the EU, a series of instruments have been adopted to establish standards for their operation, and Member States are required to comply with them. In this regard, in 2022, the EC published two draft directives on standards for equality bodies. If these directives are adopted, they will be the first legally binding documents in this field, establishing standards for the functioning of these bodies. The draft directives define the standards regarding their mandates, independence, sufficient resources for work, effectiveness and accessibility.

Recognising the importance of the NHRIs' work in a safe environment, the OSCE organised a conference in Warsaw in September 2022 and published a handbook on strengthening the resilience of these institutions.

The Rule of Law Report of the EC considers the conditions for the operation of independent national human rights institutions as one of the indicators of the rule of law in the Member States. The Report, in its section on Croatia for 2022, acknowledges difficulties related to the implementation of the Ombudswoman's recommendations and barriers to accessing certain types of information. For the first time, this Report includes recommendations, one of which addresses the above difficulties.

2.25. Right to a clean, healthy and sustainable environment

"Stress and human mortality due to increasing temperatures and heat extremes, marine and terrestrial ecosystems disruptions, water scarcity in multiple interconnected sectors, losses in crop production due to compound heat and dry conditions, and extreme weather are the key risks of climate change in Europe."

Intergovernmental Panel on Climate Change (IPCC)

In 2022, the United Nations General Assembly recognised the right to a clean, healthy and sustainable environment as a new universal human right, with the Special Rapporteur on Human Rights and the Environment monitoring its implementation. Furthermore, in 2022, the first Special Rapporteur on environmental defenders was appointed. This role focuses on situations where defenders are faced with or exposed to imminent threats of penalisation, persecution or harassment for seeking to exercise their rights under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). In Croatia, the right to a healthy life and a healthy environment has been guaranteed by the Constitution for 32 years. Croatia is one of more than 150 countries that have long protected this human right within their national systems.

Exercise of this right in practice depends on a series of factors, including the level of applied environmental standards and of human rights protection, as well as on the approach to tackling new challenges such as climate change.

Managing the risks of climate change is becoming increasingly more difficult, and multiple hazards such as droughts, floods and heatwaves frequently occur simultaneously. Sea levels are continuously rising, while food production and availability are decreasing. According to the IPCC report "Climate Change 2022: Impacts, Adaptation and Vulnerability. Working Group II Contribution to the Sixth Assessment Report of the IPCC," the risks will increase to a multiple degree after 2040, depending on the level of global warming and the near-term mitigation and adaptation actions currently being taken.

According to the assessment of the Croatian Meteorological and Hydrological Service, the air temperature in 2022 exceeded the multiannual average, resulting in very warm conditions in the northern parts of Croatia and the wider Makarska area, while nearly the entire country experienced extremely warm weather. Precipitation conditions varied from normal to dry in the vicinity of Križevci and Puntijarka, Istria, parts of Cres and Rab and the northern Velebit region, the majority of northern Dalmatia, parts of central Dalmatia and most of southern Dalmatia, while Lošinj, Korčula and Lastovo, as well as most of central Dalmatia, were classified as very dry.

The Croatian Fire Brigade recorded 7,764 vegetation fires (which constitute the majority of all fires) and five fatalities until November. The number of fires was 50% higher than in the previous year, with the Adriatic coast and the islands being the most vulnerable due to highly flammable vegetation, which is prone to ignition and spread of fires during prolonged droughts and extreme heat. According to the data of the MI, fire protection inspectors filed 652 misdemeanour charges until October, primarily as a result of neglected agricultural areas, forest and evacuation routes and illegal dumping sites.

The loss of biodiversity and changes in ecosystems are key global risks, and the IPCC asserts that it is essential to effectively conserve 30% to 50% of land, freshwater and ocean areas. Currently, protected areas cover up to 15% of land, 21% of freshwater and 8% of oceans. In order to reduce damage and enhance resilience to climate change, more effective management of these areas is necessary. The Global Biodiversity Framework for 2030, agreed upon within the framework of the Convention on Biological Diversity (COP15), sets out key objectives, including the protection of 30% of the world's land and sea and the restoration of 30% of degraded terrestrial, freshwater and marine ecosystems.

Together with other European national human rights institutions, through the ENNHRI[xxvi], we advocate for the adoption of a legally binding instrument at the level of the Council of Europe that recognises the right to a clean, healthy and sustainable environment, through an additional protocol to the ECHR or the European Social Charter[xxvii], in line with Recommendation 2211 (2021) of the Parliamentary Assembly of the CoE (PACE).

The Special Report of the Ombudswoman on the Right to a Healthy Life and Climate Change in the Republic of Croatia (2013–2020) was adopted in June 2021, but the majority of the 19 recommendations made therein have not been implemented. This includes the first recommendation made to the Croatian Parliament, urging them to declare a climate and ecological emergency, following the example of the European Parliament[xxviii]. Such a declaration would strengthen the commitment to constitutional values of nature and environmental protection, the right to a healthy life and sustainable development.

Recommendation 123 (reiterated)

For the Government of the Republic of Croatia to: further develop the constitutional right to a healthy life and a healthy environment through laws and other legislation

The second and third recommendations from the Special Report have also not been implemented, since the Croatian government does not include CSOs and youth representatives in the planning and development of all public policies in the area of environmental protection and sustainable development, and it has not halted the planning and implementation of projects that rely on fossil fuels and of projects that are not in line with sustainable development.

Acting upon complaints

In 2022, we handled 282 cases related to environmental protection, which represents an 18.5% increase compared to the 243 cases handled in 2021. Citizens, civic initiatives and CSOs filed complaints regarding pollution of all environmental components, improper waste management, light pollution, non-ionising radiation and excessive noise, and we also took action on our own initiative.

Acting upon complaints – protection of air and soil

Industrial facilities and other projects that emit pollutants into the environment, typically in the air, impact the health of citizens residing in their proximity at the same time. For years, we have emphasised that the environmental protection system is not sufficiently effective and that a mechanism for systematic health protection at these locations has not been established. At certain locations, studies were conducted after health difficulties had already been reported, such as the Study on the Impact of Environmental Factors on Human Health for Slavonski Brod by the CIPH or the Environmental Study on the Impact of the Marišćina WMC on the Health of the Citizens of Marčelji and the Surrounding Areas.

Recommendation 124

For the Ministry of Health, counties and public health institutes: to develop a programme for protecting the health of residents and carry out continuous biological monitoring of the local populations at the locations of housing waste management facilities, pollution hotspots, industrial plants and other projects emitting pollutants into the environment

Multiple cases of failures to conduct remediation have been recorded, and in 2022, the MESD did not implement any remediation programmes via third parties, based on authorisations granted by Article 198 of the Environmental Protection Act. The most problematic sites are pollution hotspots – locations heavily polluted with waste that has accumulated after prolonged improper management of industrial (technological) waste. None of the eight pollution hotspots identified in the Decision on Amendments to the Waste Management Plan for Croatia 2017–2022 have been remediated, and in 2022, the EPEEF invested funds in the remediation of one pollution hotspot – the Sovjak pit.

We have been monitoring the process of the remediation of the pollution hotspot in Biljane Donje , which is an aggregate dumping site ("black hill") where the deposited slag has been uncovered on the ground since 2010. The MESD states that this slag can be used with other materials in construction; however, in February 2023, the EC referred the matter back to the CJEU because Croatia does not classify slag as waste and has not fully complied with the 2019 CJEU judgment (C-250/18). The judgment is also applicable to other cases of landfilled waste in Croatia, since the Court believes that environmental damage occurs simply through the presence of waste at the landfill, regardless of its nature (judgment of 15 March 2017, Commission/Spain, C-563/15, item 28). It is therefore necessary to take measures to ensure the proper disposal of waste without compromising human health or

causing harm to the environment.[xxix]

The former ferroalloy factory area in the municipality of Dugi Rat has also not been remediated, where slag was deposited and has been left uncovered on the coast since 2011. After two remediation attempts, preparatory work is currently underway for a new remediation process. It is also crucial to collect data on the impact of the deposited slag on the health of local residents.

There have been frequent environmental incidents in Vranjic, a location exposed to long-term pollution, particularly of the air and of the sea, from multiple sources: area of the former company Salonit, Grain Cargo Terminal and Northern Port, where dust from deposited coal and slag is dispersed in the air, especially during bora. Vranjic also has a pollution hotspot called "Coastal area opposite the factory of Salonit d.d. in bankruptcy – Kosica,"[xxx] which includes the beach area. According to information of the Town of Solin, this is not an official town beach, but citizens use it on their own initiative, despite it being contaminated with asbestos.

The Town of Solin has not issued a decision regarding the need for special purpose measurements in the Vranjic-Solin basin, explaining that an air pollution monitoring station is included in the Environmental Impact Study of the reconstruction and expansion of the Northern Port. The City of Split issued a decision regarding the need for special purpose measurements (Official Bulletin of the City of Split 27/21) and in early March 2023, measurements began at two locations in the Brdo district, within the area of the Northern Port of Split. However, residents believe that the monitoring stations should have been placed closer, along the Vranjički Put or at another location within a distance of up to 200 meters from the open coal and slag pile.

Recommendation 125

For the Ministry of Economy and Sustainable Development to: cooperate with the Environmental Protection and Energy Efficiency Fund and with local and regional self-government units that have pollution hotspots in their territory, to stipulate the obligation of their designation as such and to fence them off as required

Recommendation 126

For the Ministry of Economy and Sustainable Development to: cooperate with the Split-Dalmatia County, the Town of Solin and the City of Split in order to prepare and adopt the Monitoring and Conservation Programme for All Environmental Components in the Vranjic-Solin Basin

According to the data of SIRC, the environmental protection inspection submitted nine requests for special purpose measurements to be carried out to the LGUs, but only one such measurement was carried out. We have once again not received information regarding the measures for soil sampling, so we encourage the environmental protection inspection and agricultural inspection, which are authorised to impose this measure, to do so in cases indicating soil pollution and infertility.

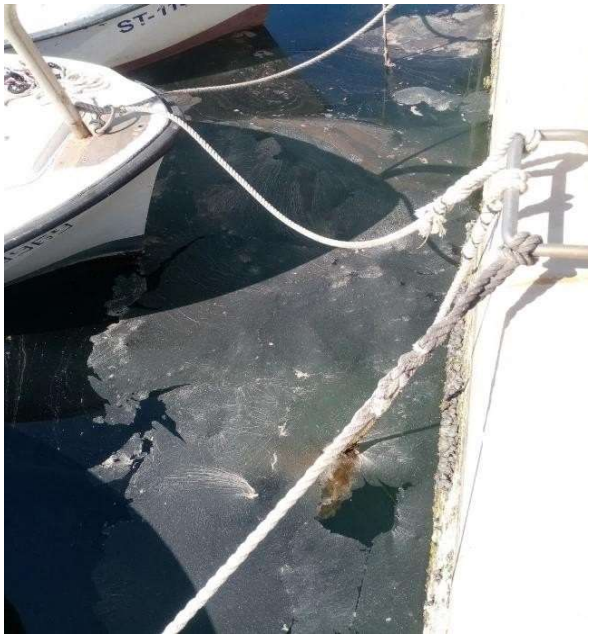
According to data of the EPEEF and the MESD, of the 11 planned WMCs, after the opening of the Marišćina WMC and the Kaštijun WMC, the Bikarac WMC as the third WMC has also been opened, while the construction of the Biljane Donje WMC is underway. Remediation has been completed or is in progress at 79% of the official landfill sites.

The State Audit Office, in its Report on Municipal Waste Management in the Republic of Croatia, determined that, contrary to the Waste Management Plan, waste disposal is increasing at the Marišćina WMC and the Kaštijun WMC, and there is insufficient production of fuel from waste. The

objectives of the Act on Renewable Energy Sources and High-Efficiency Cogeneration are also not being achieved.

Due to the dispute between the SIRC and the MESD regarding the disposal method, several thousand tonnes of improperly disposed waste in the former Istraplastika factory in Pazin have not been properly disposed as yet. The safety and health of people are at risk, especially since premises in close proximity thereof are in use.

Acting upon complaints – protection of sea, water and nature



Photograph 2

In 2022, we recorded an increase in the number of cases of marine pollution, as indicated by the data of the MMATI, the CSOs, as well as the cases we handle. The MMATI recorded three marine pollution incidents caused by hydrocarbons: 1) in the area of the special-purpose port of Brodosplit, due to leakage of fuel oil from the stormwater and mixed water pipelines; 2) near Kostrena, due to leakage of fuel oil from the sewage system caused by a malfunction at the pumping station of the Rijeka Thermal Power Station; 3) near Ližnjan, from an unknown source of pollution. In all three cases, the competent state attorney's offices are taking action, and the clean-up of the locations is being carried out. Afterward, the impact of the pollution on the marine environment will be investigated.

Following media reports, we have started monitoring the remediation process of the IVANA D gas platform, owned by investor INA-INDUSTRIJA NAFTE d.d., which sank in the Northern Adriatic Sea at a depth of 41 meters in late 2020. The MESD classified the sinking as a major accident and established a Committee to conduct an investigation. According to official data, from December 2020 to July 2022, 15 site inspections were conducted regarding the sunken platform, which revealed that there is no gas leakage, the facility is in a safe condition and it does not pose a threat to the environment. In September 2021, the Energy Inspector for Petroleum Engineering ordered the remediation of the well and associated infrastructure, as well as the removal of IVANA D from the seabed within one year, which has not been carried out. According to the Information of the MESD on the preliminary assessment of the requirement for an environmental impact assessment of the IVANA D remediation project from September 2022, it is evident that the Environmental Protection Study, prepared by EKONERG – Institut za energetiku i zaštitu okoliša d.o.o., envisages its "conversion into an artificial reef that could be used as a showcase for further scientific studies on biodiversity, climate change monitoring, determining the anthropogenic impact of pollution caused by transport, for tourism and educational purposes, as well as for monitoring the appearance of invasive species and protecting biodiversity."

In addition to the petroleum engineering inspection, the MMATI, the MESD and the Directorate for Water Management and Marine Protection believe that the creation of an artificial reef may have a

negative impact on safety, human health and marine environment. They believe that the sunken platform needs to be removed and its equipment taken ashore for reuse, in line with the recommendation of the International Maritime Organization (IMO) for platforms sunken at depths of less than 100 meters.

Greenpeace warns about methane leakage during gas extraction, transportation and storage, and calls for the examination of all offshore gas platforms, potential methane leaks, removal of waste from the sea and restoration to the natural state. We will therefore continue to monitor the decision-making and remediation process, as this decision may also affect other gas platforms which currently exist or are planned in the Adriatic Sea.

At the end of 2022, a public consultation regarding the Act on Maritime Domain and Seaports commenced. In order to protect and preserve all types of beaches, we recommended the continuous involvement of environmental and nature experts in the expert committees for concessions. It is necessary to improve and harmonise the protection of the marine environment, which is regulated by the Environmental Protection Act, the Nature Protection Act and the Maritime Code. Illegal construction on maritime property, beach reclamation and concreting of the coastline pose a problem, most commonly reported by environmental CSOs. According to the SIRC data, the environmental protection inspection recorded three cases of beach reclamation without prior environmental impact assessment being conducted.

The newly established “Josip Juraj Strossmayer” Water Institute began conducting water monitoring in Croatia in 2022 and it received three requests from the water management inspection for assistance in cases of sudden pollution. In March 2023, the new Act on Water for Human Consumption entered into force, under which this Institute is expected to start implementing the monitoring of microplastics/nanoplastics, which have been included in the indicative list of the main pollutants at the EU level.

Disposal of waste in pits and caves poses an environmental and health problem as it endangers underground water sources, among other things. We witnessed the extent of pollution at one location by participating in a volunteer clean-up campaign in the Gornji Lug cave.

Photograph 3

In accordance with the recommendation from the 2021 Report, the MESD proposed to the EPEEF that annual tenders for clean-up of caves and pits be directed toward public institutions managing

protected areas, and that the clean-ups be carried out in cooperation with the speleological community. Caves and pits will be fenced off as needed, video surveillance systems will be installed and signs prohibiting waste dumping will be placed. According to the SIRC data, the nature protection inspection conducted 33 inspections of caves and pits and 156 inspections of projects related to environmental impact assessment and assessment of the suitability of project for the ecological network.

We will continue to monitor the implementation of the recommendation from the 2018 Report to conduct an analysis of the effectiveness of measures for protecting drinking water sources, as well as for protecting water abstraction sites and water supply facilities, which the MESD states has been achieved through the adoption of decisions on protection of water sources under Article 104 of the Water Act. The MESD also states that a comprehensive risk assessment in the water supply chain and a comprehensive monitoring system will be established through amendments to the Water Act, which are currently in the adoption stage, as well as through the new Act on Water for Human Consumption (OG 30/23).

During the summer of 2022, the media reported on visitors bathing in the Cetina River spring (Glavaš or Veliko Vrilo). Since the establishment of the Dinara Nature Park, which would include this spring, has been delayed, it was not in any way protected or designated as such by signage. Water guards patrolled the location daily and warned visitors about the swimming ban, as did local officials. In September, the Croatian Waters installed informative signs prohibiting swimming, and shortly thereafter, the LGU adopted a Decision on the use of the "Glavaševo Vrelo" public water resource, which banned swimming, watering and washing livestock, waste disposal, etc.

Recommendation 127

For the Government of the Republic of Croatia to: establish a public institution for the management of the Dinara Nature Park

The importance of establishing public institutions to manage protected areas is evident in the announcement of the opening of the Veliki Siljevec quarry on Ivanščica Mountain, within the Natura 2000 network of protected areas, for which project a main assessment of the suitability of project for the ecological network is required. Almost simultaneously with the announcement of the opening of the quarry, the process of protecting the natural values of Maceljska Gora, Ravna Gora, Ivanščica and Strahinjščica was officially initiated, pursuant to Article 140 of the Nature Protection Act, and this case thus highlights how the absence of or delay in protecting certain areas of nature allows for actions that are (potentially) harmful to nature, the environment and people.

We have continued to address the complaints from residents of Premantura regarding the long-term devastation of the coast and Kamenjak Park. According to the SIRC data, until March 2022, five cases of illegal construction and one violation under the Forest Act have been identified, along with the subdivision of private forests. We are also taking action based on complaints about the devastation of the significant landscape "Rovinj Islands and Coastal Area" and the Medvednica Nature Park. Furthermore, we are monitoring the continued investigation by EU institutions into illegal logging in the Natura 2000 area, as mentioned in the Commission Staff Working Document, Environmental Implementation Review 2022, Country Report – Croatia.[xxxi]

In the EU Biodiversity Strategy for 2030, bees are recognised as the most significant pollinators for ecosystem restoration, making their effective protection crucial. However, in 2022, mass mortality of bees occurred in Međimurje due to the unauthorised use of pesticides. Despite the legal obligation in that regard, neither beekeepers nor the Croatian Beekeepers Federation were informed in advance of the pesticide use by farmers. The SIRC and the Ministry of Agriculture provided precise parameters for

soil, plant and bee sampling, unlike in regard to the bee mortality incident in the Virovitica-Podravina County in 2020, when such measures were not taken.

Acting upon complaints – protection against non-ionising radiation, noise and light pollution

"...I am contacting you on behalf of the concerned residents of T. regarding the placement of the new base station (the third one) in our small village... The works rapidly started in early February on land owned by a natural person... which is located only 100 m away from our homes... We believe that stricter regulations should be adopted regarding such projects which directly affect citizens' health, which mobile operators would be obligated to comply with, and that before the commencement of any works, they should contact the local self-government unit and together make decisions and compromises which will be to their mutual benefit, without endangering the citizens' health and lives."

Citizens continue to complain about non-ionising radiation from base stations, excessive noise and light pollution, and they express concerns about their health due to the harmful environmental impacts.

A base station that was found to be operating without a valid operating licence, which we have been dealing with since 2018, has been removed. According to SIRC data, the construction inspection issued four removal orders for base stations due to construction work being carried out without a main design, and it submitted a motion to indict against three telecommunications companies for use of structures without a valid operating licence.

The number of noise complaints has increased, with the main issues revolving around the methods and conditions of noise measurement. The sanitary inspection conducted 1,072 inspections of implemented noise protection measures, identified 230 violations, imposed 184 fines and initiated 46 misdemeanour proceedings.

Regarding light pollution, the environmental protection inspection received 41 complaints, of which 25 were forwarded to the municipal services monitoring unit. The Ordinance on the Measurement and Monitoring of Environmental Lighting, referred to in the Act on Protection against Light Pollution, was open for public consultation in May and was adopted at the end of February 2023.

Experiences of environmental CSOs

CSOs point to infringement of the rights of access to information, public participation in decision-making and access to justice in environmental matters, as stipulated in the Aarhus Convention. They highlight the unavailability of documents concerning the procedures of environmental impact assessment (EIA), preliminary assessment of the requirement for an environmental impact assessment and strategic environmental assessment (SEA). Additional problems include very short e-consultations, especially by the Ministry of Agriculture, for example with a duration of only 9 days for the Croatian Fisheries Programme for the 2021–2027 period. They also emphasise the lack of properly implemented monitoring of approved projects and the failure to implement measures to mitigate the impacts of constructed projects in practice. They state that competent authorities refer them to exercise of their rights under the Act on the Right of Access to Information, and that the authorities do not interpret environmental information in accordance with the Environmental Protection Act.

CSOs are calling for legislative amendments that would enable them to participate in the earlier stages of procedures regulated by the Physical Planning Act and the Building Act for projects that require mandatory environmental impact assessments to be carried out. Furthermore, they are advocating for a revision of the measures within the competence of the environmental protection inspection, which currently allow for environmental impact assessment procedures to be carried out after the project has already been implemented. They highlight the lack of application of the principles of urgency and precautionary measures in judicial proceedings, as temporary injunctions banning projects that have an impact on the environment or nature are not being utilised sufficiently.

Recommendation 128 (reiterated)

For the Judicial Academy to: educate judges in the field of environmental law

3. WHISTLEBLOWER PROTECTION

Since 2019, the Ombudswoman has served as the competent authority for external reporting of irregularities, first based on the Whistleblower Protection Act (WPA/19), which entered into force on 1 July 2019, and then based on the new Whistleblower Protection Act (WPA/22), which entered into force on 23 April 2022. The latter implements the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

The transitional provisions of the WPA/22 set the time limits for submitting the Rules of Procedure of the Ombudswoman, aligned with the provisions of the WPA/22, to the Croatian Parliament for approval. This was done on 20 June 2022, and the Croatian Parliament adopted the Rules in February 2023.

A significant innovation of the WPA/22 is that now the reporting person can freely decide whether to submit the report concerning irregularities to a trusted person appointed by the employer or directly to the Ombudswoman, thus having the choice between internal and external reporting channels. However, the WPA/22 still promotes the primary use of the internal reporting system.

This led to a 60.37% increase in the number of external reports concerning irregularities and a 22.92% decrease in the number of notifications regarding internal reports compared to the previous year. Therefore, we can conclude that reporting persons prefer to submit reports to the Ombudswoman, which may indicate a lack of trust in internal reporting. However, final conclusions cannot be drawn based on this data, since there are no official records of employers who are required to establish an internal reporting system, nor are there records of these reports.

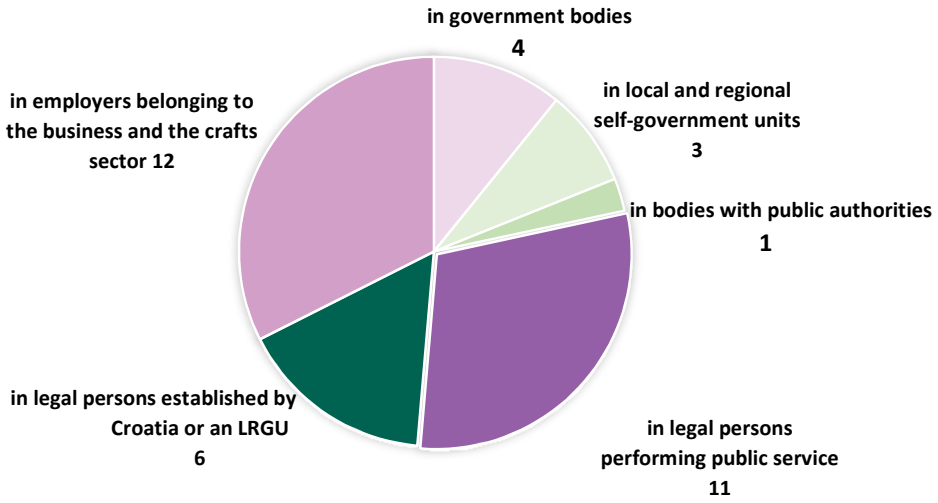
Despite the legal obligation to do so, some employers have still not adopted the general document and/or appointed a trusted person and their deputy. As a result of these failures, in 2022, labour inspectors filed five motions to indict against legal persons as employers and their responsible persons to the competent courts, with two cases concerning the failure to comply with obligations under the WPA/19 and three cases concerning the WPA/22. During one inspection, the Education Inspectorate imposed a measure on the supervised institution and ordered it to comply with the provisions of the WPA/22, which was implemented without filing a motion to indict.

In late July, the Action Plan 2022–2024 was adopted as the implementing document accompanying the Anti-Corruption Strategy 2021–2030. Additionally, in 2022, the Anti-Corruption Council held two sessions discussing the implementation of the WPA/19 and the WPA/22. Activities and reforms to be implemented as part of the National Recovery and Resilience Plan were presented, and we plan to actively participate in the development of the IT platform functionality concerning the reporting of irregularities. The development of this platform aims to enhance the functioning of the anti-corruption framework through monitoring various areas of corruption prevention, exchanging data and improving coordination among bodies involved in the development, implementation and monitoring of national anti-corruption measures, and informing the public about the existing legislative framework in the field of corruption prevention.

3.1. Internal reporting of irregularities

In order to fulfil the legal obligation of informing the Ombudswoman, in 2022, trusted persons provided us with 37 notifications regarding the received internal reports of irregularities. Of these, 12 concerned irregularities in employers belonging to the business and the crafts sector, 11 in legal persons performing public service, six in legal persons established by RC or by an LRGU, or in which RC or an LRGU has individual or joint majority ownership, four in government bodies, three in LRGU bodies and one in bodies with public authorities.

INTERNAL REPORTING OF IRREGULARITIES



It arises from the provided notifications that the majority of the reports were deemed unfounded, while those considered founded mainly related to irregularities in the composition and functioning of the employer's organisational units and bodies. The irregularities considered founded were either already resolved with the employer at the time of submission of the notification or the employer initiated the process of remedying them. In one case, the irregularity involved the unlawful actions of a former manager of an institution who sold the employer's assets for his own account without authorisation, thereby unlawfully acquiring financial benefits. The trusted person in that case informed us that the employer took no action to remedy the irregularities. Consequently, we advised the trusted person to submit the report to the competent authorities authorised to act in accordance with the content of the report, highlighting the employer's liability for the offence of failing to take measures to address the identified irregularities.

From the provided notifications, it is evident that trusted persons are generally aware of the legal obligation to protect the identity of the reporting person and of the reported person. In a few cases, the notifications from trusted persons contained insufficient information about the report and the actions taken, making it difficult to have complete insight into how the WPA/22 was applied. Therefore, we explained to them that although the WPA/22 does not specify the exact content of the notifications they are to provide, it would be necessary to indicate the material area to which the reported irregularity pertains, whether the reporting person is a natural person reporting irregularities they became aware of in their work environment, whether their identity has been successfully protected or if they did not request protection, whether the reporting person's rights were jeopardised or infringed as a result of the report, whether the infringements have been prevented/remedied and whether the irregularity has been deemed founded and successfully remedied.

In order to facilitate the fulfilment of the legal obligation of notification by trusted persons, we created a form for that purpose and posted it on our website. Although we have noticed positive progress in understanding the application of the Act, it is necessary to continue with ongoing training for trusted persons, as indicated by their frequent inquiries about whether a particular irregularity falls within the scope of the WPA/22 and how to apply the Act.

The need for ongoing training is also evident in the reports of trusted persons, which show that they conducted procedures regarding individual violations of employment rights, which are not of public interest and therefore do not constitute irregularities under the WPA/22. We advised them accordingly and invited them to attend the training that we organised, which will be further elaborated on below.

In cases where this was deemed necessary, we also clarified that the Ombudswoman is not a second-instance body in relation to trusted persons and does not supervise the proper conduct of the procedure for internal reporting of irregularities as a result of the reporting person's dissatisfaction with the work of the trusted person. The Ombudswoman serves as an external reporting channel, and her procedure is conducted independently of the manner and outcomes of the trusted person's actions.

Only the reporting persons may submit a report to the Ombudswoman, of which we informed the trusted person who, after completion of the procedure following internal reporting and the failure to resolve the irregularity with the employer, forwarded the report to us for further action.

Through communication with trusted persons and the notifications received, we identified difficulties in understanding the relationship between the WPA/22 and the Public Internal Control System Act (PICSA), both on the part of employers and of the appointed persons. For example, some trusted persons submitted annual reports on irregularities, which, according to the PICSA, should be submitted

to the competent organisational unit of the Ministry of Finance responsible for budgetary control. These two acts define the concept of irregularities, the manner of appointment and the obligations of persons taking action in accordance therewith in a significantly different manner. According to the PICSA, a trusted person automatically becomes the person responsible for irregularities. Furthermore, the Ordinance on Handling and Reporting of Irregularities in the Management of Funds of Public Sector Institutions, adopted based on the PICSA, does not require consent for the appointment of the person responsible for irregularities. It stipulates conditions regarding professional qualifications and work experience that must be met (e.g., education in the field of economics or law, three years of work experience, cannot be an internal auditor). It also outlines different procedures and reporting modalities for irregularities, which differ from the provisions of the WPA/22.

Recommendation 129

For the Ministry of Finance, to: draft, in cooperation with the Ministry of Justice and Public Administration, amendments to the Public Internal Control System Act and of the Ordinance on Handling

Although trusted persons are obligated to inform the Ombudswoman of the received reports and their outcomes within 30 days of deciding on a report, some provided us with semi-annual reports on received reports in accordance with the employers' general acts, thereby exceeding the legally stipulated time limit for the provision of such notifications.

Employers who have established internal reporting channels include some who are not obligated to do so, which is an example of good practice and understanding of the need to implement effective mechanisms for combating irregularities. As a positive example, we refer to a company with fewer than 50 employees which, despite the absence of a legal obligation to do so, established an internal reporting channel and enabled the submission of questions related to irregularities through an online platform. In cooperation with the Croatian Employers' Association, we received information that certain employers have provided additional rights for trusted persons and/or their deputies, such as training, separate office, external expert assistance in conducting procedures related to reports of irregularities and a reduced workload while taking action on the basis of such reports. Such an approach to the work of trusted persons certainly contributes to their effective performance of tasks imposed by law and to better protection of the reporting persons.

Recommendation 130

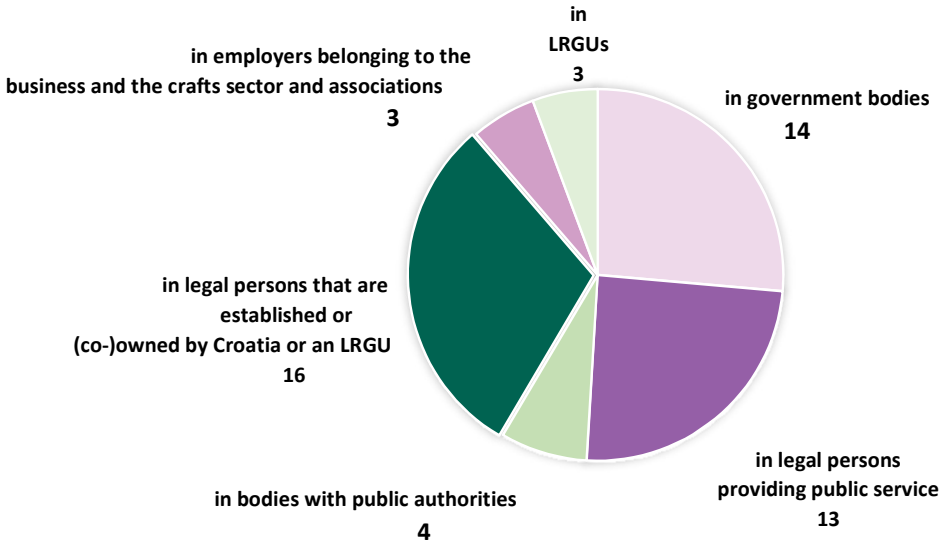
For the Ministry of Justice and Public Administration, in cooperation with the Croatian Employers' Association, Croatian Chamber of Economy, National School for Public Administration and unions, to: continue providing training for trusted persons and their deputies

3.2. External reporting of irregularities

As the competent authority for external reporting, in 2022, we handled 53 newly opened cases, as well as 18 cases opened in the previous years.

Of the newly opened cases, 16 pertained to legal persons established by Croatia and/or by an LRGU or in which Croatia and/or an LRGU have individual or joint majority ownership, 14 to various government bodies, 13 to legal persons performing public service, four to bodies with public authorities and three each to LRGU bodies and employers in the business and the crafts sector, respectively. It arises from these data that reporting persons in the so-called public sector are still more inclined toward external reporting of irregularities.

EXTERNAL REPORTING OF IRREGULARITIES



The reports pointed out to various irregularities, ranging from those related to public recruitment procedures or appointment to management positions, access to information affecting the interests of citizens, public procurement, tax evasion, conclusion of harmful contracts and conflicts of interest, to various cases of abuse of position and authority, trading in influence and other corrupt criminal acts. The reports were forwarded to the bodies competent for acting on the content of the reports, and only the allegations and evidence indicating irregularities within their competence were provided to each body, while protecting the identity of the reporting persons and the confidentiality of the data.

Although the bodies authorised to act on the content of the reports are generally aware of their obligations under the WPA/19 and the WPA/22, there have been cases where some bodies, primarily LRGUs, were not clear on when they should act through a trusted person and when as a body competent for acting on the content of reports of irregularities forwarded by the Ombudswoman as the external reporting body.

Certain bodies competent for acting on the content of the reports did not provide us with appropriate notifications of the measures taken or the final outcome of the procedures initiated based on reports we forwarded to them within the legal time limit of 30 or 15 days, respectively. In 13 cases opened in previous years, the bodies competent for acting on the content of the reports were still examining the irregularities, which indicates the complexity of the reported irregularities as well as the lengthy process of handling them. In some notifications provided to us by the bodies competent for acting on the content of the reports, it was unclear what actions had been taken, whether any actions would be taken or what had ultimately been determined. Regarding the progress and outcome of individual procedures initiated in accordance with the WPA/19, in cases where we forwarded the reports to the competent bodies in order for them to take action, our first specific insights into the procedures came from the media, which is not the purpose of the WPA. We also point to cases in which the competent bodies established the existence of the reported irregularities, but the employer failed to remedy them or sanction the responsible persons, or the competent body failed to act as stated above where the irregularity was committed by the employer's person responsible, which acts as a deterrent for reporting persons and for those considering making a report.

In addition to irregularities, reporting persons sometimes indicated that they have become victims of harmful actions/retaliation due to their reporting, so in 2022, we conducted investigative procedures to assess whether their constitutional and legal rights had been violated as a result. In several cases, we established that the unfavourable treatment of the reporting persons by the employer can be linked to their reporting, and we imposed appropriate measures in response. In addition to the above, we also conducted an investigation to protect an individual who claimed to have suffered retaliation in the work environment due to their family connection with the reporting person, and in early 2023, we found the complaint to be well-founded.

However, there is still insufficient understanding of what constitutes harmful action/retaliation, so unfavourable treatment by the employer toward the reporting person is sometimes reported as an irregularity. Furthermore, unfavourable treatment that occurred prior to the reporting of irregularities is sometimes reported as retaliation, although there is no causal link between the reporting and the retaliation.

Harmful actions/retaliation that reporting persons have pointed out, covered by the application of the WPA, most commonly involved termination of employment contracts, removal from management positions, transfer, reassignment to lower-level positions and various pressures, such as initiating civil and/or criminal proceedings.

A common experience among most reporting persons who suffered some form of retaliation is distress, fear and dissatisfaction with the fact that, despite acting in the public interest and reporting irregularities that are often confirmed by the competent bodies, they are not automatically protected against, for example, termination of employment contract. In such cases, they ultimately have to seek protection through court proceedings, which they believe take too long, even though they are deemed urgent by law. It is important to note that reporting persons are not entitled to free legal aid regardless of their financial status, and they cannot exercise the right to psychological support, which has proven to be necessary in most cases. Although the WPA/22 provides for the right of reporting persons to emotional support, it was not possible to exercise it during 2022 because the MJPA did not adopt the regulation that would govern its provision within the legal time limit, which expired in October 2022,.

Recommendation 131

For the Ministry of Justice and Public Administration to: urgently adopt the Ordinance on Emotional Support for Reporting Persons, Related Persons and Trusted Persons and Their Deputies

Recommendation 132

For the Ministry of Justice and Public Administration to: implement a media campaign aimed at the general public about the importance of reporting irregularities and protecting reporting persons

Harmful actions/retaliation did not occur after the reporting persons reported the irregularity exclusively to the Ombudswoman and requested identity protection. Such reports were mostly forwarded anonymously to the bodies competent for taking action, with feedback provided to the reporting persons regarding the actions taken by the competent bodies. Harmful actions/retaliation primarily occurred in cases when reporting persons, often due to lack of knowledge, failed to submit the report to the employer as stipulated in the WPA/19 and the WPA/22, or when they directly submitted it to the competent bodies, thereby revealing their identity.

Some reports show a lack of understanding of the conditions for exercising the rights to protection under the WPA/19 and the WPA/22, particularly those defining who can be a reporting person, what can be the subject of the report, the scope of application of the Act, the content requirements of the report and the method of submission: to the trusted person appointed by the employer, to the Ombudswoman as the competent external body for reporting irregularities or through public disclosure.

We thus continued to receive anonymous reports, reports from individuals who did not become aware of the irregularities within their work environment or who were not directly involved in the performance of work for the employer, reports on irregularities concerning individual rights rather than public interest and reports previously submitted in ways not prescribed by the WPA/22. Although we have conducted training for trusted persons, published information on our website and responded to oral and written inquiries with the intention of providing essential information about the conditions and methods of reporting, it is necessary to carry out broader promotional and educational activities to inform citizens about their rights and obligations under the WPA/22.

The WPA/22 expanded the subject-matter jurisdiction of courts in proceedings for the protection of reporting persons, which should enable more effective protection for them. After the Ombudswoman established unfavourable treatment and imposed measures, in two cases, reporting persons initiated

court proceedings based on the WPA, while in the third case, a request for amicable dispute settlement was submitted before initiating court proceedings against a government body as the defendant.

To ensure more efficient and faster protection of reporting persons, the WPA/22 introduces the concept of interim measures, which are decided upon urgently and independently of the decision on the main issue, which is essential for achieving the purpose of this legal instrument.

Although, to our knowledge, there are no relevant final judgments by national courts regarding the protection of reporting persons, the ECtHR developed case-law related to the freedom of expression in the workplace when reporting illegal activities in a series of judgments (*Guja v. Moldova*, *Bucur and Toma v. Romania*, *Heinisch v. Germany*). In that respect, the right to freedom of expression under Article 10 of ECHR is not absolute and can be subject to limitations stipulated by law, which is necessary in a democratic society. The criteria for assessing the lawfulness of restrictions on freedom of expression, developed through the case-law of the ECtHR, are also applied in Croatia as part of the EU acquis. However, national case-law for the protection of reporting persons is yet to be developed.

3.3. Public disclosure

In comparison to the WPA/19, which allowed for public disclosure only in cases of immediate danger to life, health, safety or the occurrence of significant loss or destruction of evidence, the WPA/22 expands the cases in which reporting persons are protected when publicly disclosing irregularities.

A reporting person who publicly discloses irregularities is entitled to protection under the following conditions:

- they first submitted a report through the internal and external reporting system, or directly to the Ombudswoman, but appropriate measures were not taken in response to the report within the time limits stipulated by the WPA/22;

or

- they have a justifiable reason to believe that the irregularity may pose an immediate or obvious danger to the public interest, such as in a crisis situation or where there is risk of irreparable harm, or in cases of external reporting where there is risk of retaliation or the likelihood of effectively addressing the irregularity is low due to specific circumstances of the case.

In 2022, we monitored cases of public disclosure of irregularities and the application of the WPA to such cases. From the review of media reports on public statements made by individuals who exposed unlawful practices in their work environments, there was a slight decline compared to the previous year, when the WPA/22 was being prepared, which received significant media attention.

In early 2022, a doctor spoke out in the media, making accusations against the hospital where he was employed. The media reported that the doctor had unsuccessfully alerted the competent institutions, professional chambers, associations and the hospital's founder about the irregularities. Eventually, the doctor publicly disclosed the irregularities he had previously documented, which revealed shortcomings in the manner of the use of the healthcare and medical equipment, reuse of syringes and

other disposable medical equipment, technical malfunctions in essential systems for operating rooms, performance of medical procedures on multiple patients simultaneously and supervision of those procedures by unqualified staff. An inspection conducted by the Ministry confirmed the majority of the reported irregularities, and experts from the MH provided a list of 18 measures that the hospital had to implement in order to operate in accordance with professional standards.

In June 2022, a television report was published about an employee of a kindergarten who alerted parents of the nursery group children about the inappropriate behaviour of two teachers toward the children. The media reported statements from parents who had suspected that something was wrong for months, while some had personally witnessed the teachers' harsh behaviour. After the irregularities were brought to light, the parents sought a response from the director. Following their repeated complaints, the Ministry requested that the irregularities be addressed and supervision by a competent professional be conducted. One of the teachers was transferred to a different position under supervision, while the other is no longer employed by the kindergarten. The employee who exposed the irregularities received a warning with the possibility of termination of employment.

In late 2022, the media also reported on a case involving the director of a city institution, who publicly revealed that she had been politically pressured to retain an employee whose employment had been found to include illegal elements in the course of an inspection. The media reported that the director was dismissed because she refused to provide a more favourable work status to a close family member of the president of a city body compared to other employees of the institution.

In 2022, the media continued to follow court proceedings involving individuals who exposed irregularities, as well as cases of previous public disclosures, regardless of whether the WPA applied in those cases. We commend the media's interest in these cases, as it helps raise awareness among citizens about the importance of reporting irregularities and protecting those who have had the courage to do so.

3.4. Educational and promotional activities

With the entry into force of the WPA/22, the number of training programmes concerning the application of the Act, in which we participated as lecturers, has increased. In the last quarter of 2022, we held workshops on the application of the WPA/22 in Rijeka, Split, Zagreb and Osijek, aimed at trusted persons in order to enhance their understanding of their rights and obligations in the process of internal reporting of irregularities.

Due to the great interest of trusted persons and positive feedback, we plan to continue organising workshops in 2023. From the workshops held so far, it arises that there is still a relatively low number of trusted persons who have acted upon a report of irregularities, and there are uncertainties in the application of the Act.

In 2022, we cooperated with the Croatian Bar Association in preparing educational materials for lawyers, which covered not only legal provisions but also the relevant case-law of the ECtHR concerning Article 10 of ECHR, particularly freedom of expression in the workplace.

We also established cooperation with the Judicial Academy and in 2023, we will participate in educational programmes for judges on the application of the WPA/22.

In 2022, we attended numerous national and international conferences and lectures on the protection

of reporting persons, establishing contacts with national associations dedicated to whistleblower protection, as well as with international experts, organisations and delegations, all with the aim of providing more effective protection for reporting persons.

As members of the Network of European Integrity and Whistleblowing Authorities (NEIWA), we actively contributed to its work in 2022, exchanging best practices on transposing of the EU Directive 2019/1937.

We plan to continue our educational and promotional activities in 2023, aiming to directly communicate with trusted persons, reporting persons, lawyers, judges and other stakeholders in order to share our experiences in the application of the WPA and contribute to its effective and consistent implementation.

4. POLICE TREATMENT, RIGHTS OF PERSONS DEPRIVED OF LIBERTY AND THE FUNCTIONING OF THE NATIONAL PREVENTIVE MECHANISM

4.1. Police system

Regarding police treatment, the Ombudswoman acts in accordance with the authorisations under the Ombudsman Act and the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4.1.1. Protection of citizens' rights in police treatment

In 2022, we took action in 103 cases opened in that year, both based on citizen complaints and at our own initiative, concerning unlawful deprivation of liberty, use of force with elements of violence, omissions in policing and unprofessional and unethical conduct of police officers toward citizens.

EVERYTHING WAS CAPTURED ON CAMERA

Outraged father of chef beaten by police officer: 'You beat him with no reason!'

"If they had put him in handcuffs, taken him in for questioning and determined why he had been at that location, I would accept it as a police error. But beating him on the back with a baton, with no warning, restraining him, arresting him, confiscating his phone... What in the world is this?" This comment was made by the father of a 21-year-old (information known to the Slobodna Dalmacija editorial team) who found himself in the vicinity of the clash between the police and a group of fans that occurred on 21 October after the Hajduk–Dinamo football match at the Poljud stadium. He was beaten and arrested, along with five others.

The following day, he was released from custody without charges, or as stated in the police press conference, because he had an alibi. The young man's alibi is solid, as it was confirmed by, among others, his colleagues at the restaurant where he works as a chef, and which he left that night only a few minutes before the street clashes between the riot police and the fans, heading toward his car parked in the Zrinsko-Frankopanska Street.

jutarnji.hr, 24 October 2022

Police interventions in two cases concerning fans of the same football club attracted particular attention in the public. In both cases, force was used, and despite the existence of video footage of the events and suspicion of unlawful conduct by police officers, the problem arose in identifying all the participants in the events.

In Split, police officers responded to a call from citizens regarding noise during night hours. They issued an order to cease such behaviour, but then they were attacked and requested backup. The Split-Dalmatia County Police Administration informed the public that four police officers were injured and six individuals were arrested. However, the media published a video recording of a police officer's brutal treatment of a citizen (repeatedly kicking the citizen in the head and body, using a baton while the person was lying on the ground) who did not put up any resistance, in the presence of two police officers who made no attempt to stop their colleague's violent behaviour. Subsequently, it was revealed that the citizen just happened to been present at the scene of the incident and that he had not participated in the disturbance of peace at all.

We received a report from the expert team of the General Police Directorate, which, contrary to the previous assessments by the management of the Split-Dalmatia County Police Administration, established two instances of unlawful use of force resulting in bodily injuries. Taking of measures to determine the identities of all police officers who unlawfully used force was ordered, as was the conducting of criminal investigations to determine any potential criminal offences, both by members of the fan group and by police officers. The Head of the Police Administration publicly announced that the identity of the "police officer in the video" had been established and that he "would be dismissed from service, with initiation of urgent disciplinary proceedings".

Three months later, the media published a statement issued by the competent State Attorney's Office that investigative steps had been taken regarding the excessive use of police force, and that a special report from the Police Administration indicated that "the police, through their previous work, failed to determine the identity of the person on whom force was applied while they were on the ground and not offering resistance, despite conducting interviews with several individuals who were believed to have the relevant information." For the rule of law, it is necessary that further actions result in establishment of the accurate factual situation, especially in order to dispel any suspicion of obstructing possible criminal proceedings against the police officer who used violence. It is also necessary to clarify the discrepancy between the initial assessments of the Head of the Police Administration regarding the justification of the use of force and the subsequent assessment of the expert team that the actions were in fact not lawful. In order to build trust in police treatment, it is important to identify all participants in the events, including all police officers, for the purpose of determining if there is any liability. The CPT also emphasises that any prohibition of abuse loses credibility if persons performing police duties are not held accountable for such actions.

The Act on Police Tasks and Authorities (APTA) stipulates that force may be used to protect lives, overcome resistance, prevent escape, repel attacks and eliminate danger if it is likely that warnings and orders will not achieve the desired result.

In the second incident, at the Desinec gas station on the A1 motorway, a conflict likewise occurred between football fans and police officers who used force as a response. The police assessed that the use of force was lawful and justified. However, one video recording shows a police officer using a baton against a person who is sitting in a vehicle and is not resisting, meaning that the conditions for lawful use of force were not met. The General Police Directorate later agreed, stating that the officer's actions were contrary to "standards of training and consistency in treatment." However, the inability to identify the police officer is questionable, and the statement "that the video material will be used for educational purposes in training of police officers in order to emphasise the need for consistent law enforcement and respect for human rights" is not an adequate measure.

We believe that effective methods of identifying police officers should be implemented in order to enable their recognition in all disputed cases. This could be ensured through the use of body cameras or visible markings on multiple parts of the uniform, such as a sufficiently sized identification number on the shoulder or the police helmet, rather than by solely relying on the official badge number, since the badge is often not visible or not worn in a way that would make it visible.

In 2015, the MI launched the e-Police project, which aimed to enable video recording of police treatment in order to protect citizens from unlawful or unethical treatment by the police, as well as to protect police officers from unfounded complaints. However, such a system is not yet in place. Back in 2016, we determined that a significant number of complaints regarding unprofessional and inappropriate conduct of police officers remain unconfirmed due to a lack of evidence, as facts are established based on typically contradictory statements from police officers and citizens.

Recommendation 133

For the Ministry of the Interior and the General Police Directorate to: introduce more effective methods of identifying police officers with regard to police treatment

Recommendation 134

For the Ministry of the Interior and the General Police Directorate to: ensure that force is used only when it is necessary and proportionate

According to the APTA, police officers are obligated to always use the lowest level of force that guarantees success, meaning the one that inflicts the least harm on the person to whom it is applied. According to CPT recommendations, force should be used only when it is necessary and proportionate, in order to bring individuals behaving violently under control.

In the conflict at the Desinec rest area, citizens sustained gunshot wounds, and despite the passage of time, the circumstances remain unclear. According to publicly available information, despite organised police escort, the fans stopped at the rest area and attacked the police officers who were securing the gas station. They used physical force, threw stones, used fire extinguishers, flares and other objects suitable for causing bodily injuries and significant property damage. The police officers used force against multiple individuals and fired shots from firearms under circumstances that remain unexplained in the context of criminal law, resulting in several individuals sustaining gunshot wounds. The police stated in the media that the shots were fired into the air as a call for help and to repel the attack on the lives of the police officers.

According to the APTA, firearms can be used, among other reasons, in self-defence or in extreme necessity, where it is not possible to avert imminent or direct danger to one's own life or the life of another person without it. The use of firearms is not permitted if it endangers the lives of others, except where it is the only means to defend against an attack or eliminate danger. Under the APTA, firing a warning shot when the conditions for the use of firearms in self-defence or extreme necessity are met and firing a shot to seek assistance do not represent the use of firearms as a means of force.

The fact is that, in the specific case, several individuals sustained gunshot wounds under circumstances which are still unknown. Therefore, the assessment of whether the shots were fired in self-defence or to seek assistance should be determined by the State Attorney's Office and ultimately by a court of law. According to publicly available information, the State Attorney's Office is still to establish all the relevant facts of this incident. In the context of establishing all the facts, an effective investigation should certainly be conducted, which should involve the victims. To foster public trust in the judicial system, it is especially important that the public is provided with sufficient information about the investigation and its results.

Recommendation 135

For the Ministry of the Interior, the General Police Directorate and the State Attorney's Office to: conduct an effective investigation in cases of potential overstepping of authority by police officers, especially when this leads to grievous bodily injury as a result of the use of firearms by police officers

We acted upon citizens' complaints regarding unlawful deprivation of liberty without the legal conditions for it having been met

For example, a citizen who had previously complained about the conduct of police officers during a border crossing and filed a criminal report to the State Attorney's Office was subsequently arrested. The Commission for Complaints deemed this complaint about the unprofessional conduct of police officers well-founded, contrary to the previous two levels of internal police control. The State Attorney's Office forwarded the criminal report to USKOK for further action. However, while the State Attorney's Office was still taking actions, the police arrested the citizen "on reasonable suspicion of filing a false criminal report," after it was "established that the allegations in the complaint were unfounded, untrue and false" in the process of determining the veracity of the allegations made in his criminal report and complaint to the police. It is unclear in which process this was "established," since the Commission had found the allegations in the complaint justified, and the State Attorney's Office was still acting on the citizen's criminal report. Subsequently, the State Attorney's Office dismissed the police's criminal complaint against the citizen. The citizen believes that this was retaliatory behaviour by the police, sending a message to citizens about the consequences of daring to complain about police treatment and persisting in doing so. The State Attorney's Office is responsible for establishing all the circumstances of this case, and both the Constitution of the RC and the ECHR stipulate that no one shall be deprived of their liberty or have their liberty restricted, except in cases stipulated by law.

Deprivation of liberty under questionable circumstances was also recorded in the case of a citizen who sought police intervention due to an ongoing dispute with a neighbour, whom she had reported to the police multiple times over several years for various criminal offences, including threats, to no avail. After requesting police intervention once again, she was taken to the police station and spent more than five hours in the premises for persons deprived of liberty because the neighbour had also filed a complaint against her for threats. The reasons for deprivation of liberty are unclear, considering that she voluntarily responded to the invitation of the police officers to provide a statement. It is evident that she was arrested, but she was not informed thereof, and the appropriate documentation regarding the arrest was not completed. Shortly thereafter, the State Attorney's Office dismissed the criminal charges against her. The citizen believes that the police's actions were a form of retaliation because several years before, the ECtHR had issued a judgment regarding the ineffective investigation of her criminal report. She states that the police's handling of the neighbour's report is biased since in cases where she filed reports against the neighbour for threats, as well as in other cases, the neighbour was not deprived of liberty, and the State Attorney's Office was not informed about the reports.

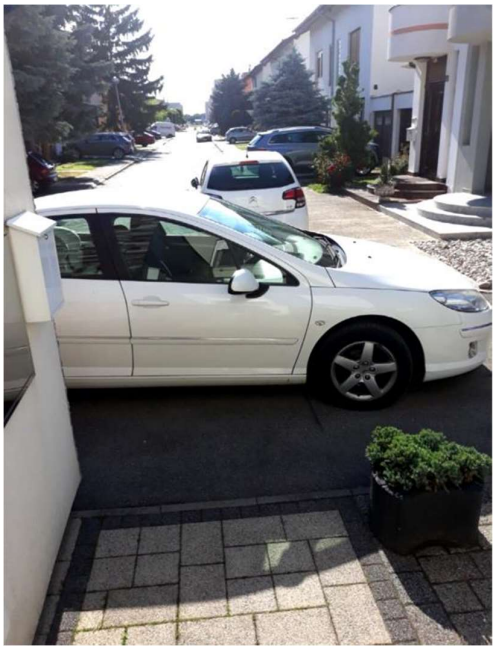
"A female police officer searched me and I was locked in a cell. When I asked, 'Why is this happening?', I was told that it was so ordered. I am reporting the person who made the decision to unlawfully deprive me of liberty for violating my human rights to defence and for prohibiting me from informing anyone that I was in custody.
The second police officer, whom I had not seen before that day, was with me the whole time. I asked why I was detained, why I hadn't been told that I would be detained – so that I could take my medication and leave water for my dog, when I would be interrogated, how long they were planning on keeping me and what I was even accused of. Being locked in the cell, I have to say that that was the first time in my life that I had been locked up, and after about an hour and a half, I felt weak and afraid. I realised that they could do whatever they wanted to me because no one knew where I was, and I started having a panic attack, which felt very much like I was going to have a heart attack. I was breathing heavily and loudly, so I asked them to call an ambulance because I was feeling unwell. I sat on the floor to cool down my body, the veins in my arms pulsated and I placed my palms on the floor. The ambulance did not arrive for at least half an hour, and I had the worst panic attack in my life. Then a police officer, an investigator, appeared and threatened that if I didn't stop screaming, I would be interrogated the day after tomorrow, which made my condition even worse."

It is concerning that there are cases where citizens have been calling the police for several years and we found that sufficient measures have not been taken to provide them with adequate protection.

For example, a citizen has been verbally abused by a neighbour for 17 years due to disturbed interpersonal relationships. The police documented the existence of threats as well as physical violence over an extended period. A recommendation was sent to the MI to conduct an effective and efficient investigation in order to reassess, based on the overall established facts, the validity of the allegations made in the complaint and to resolve any doubts regarding whether there are elements of a misdemeanour or a crime.

"It is an extremely challenging and sad experience in the urban environment to carry babies one by one, switching arms, over car tops, boots or other parts of vehicles parked in public areas. The experience I usually have after returning from exhausting oncology appointments and treatments is equally sad, when, due to my health, the patient transport workers or persons accompanying me cannot wheel me or carry me on stretchers into my own house. Instead, with great effort and improvisation, they have to carry me over parts of parked vehicles or carefully manoeuvre me through the minimal space available."

Photograph 4



In another case, a citizen who is undergoing cancer treatment is being blocked from entering his family home by a neighbour who parks vehicles in front of the entrance. Access to the house is necessary for both the arrival of EMS ambulances and the passage of baby prams. It is concerning that police officers have shown insensitivity and have not taken any available measures to regulate parking in an acceptable manner. We recommended that the police take actions aimed at preventing the escalation of neighbour disputes and that they inform the city's competent administrative office about the issue. This is because the neighbour, at his own discretion, marked parking spaces on the city's public property.

Of particular concern and questionable legal validity is the behaviour of the Police Administration, which provided the complainant's information and the complaint they had sent us, which we forwarded to them for appropriate handling, to a law firm hired by the head of the police station.
The law firm requested the information, which we did not provide to them, in order to protect the rights and interests of their client, who they claim "suffered loss and damage to professional and personal reputation as a result of the complainant's actions." However, it is unclear how acting on a complaint about police conduct became an issue of protecting the private interests of the head of the police station, and whether the head of the police station, if protecting their private interests by hiring a law firm, had made every professional effort to investigate the submitted complaint.

Considering the above, there is no doubt that the police apply different criteria and act differently in comparable situations. In this case, information received from the Ombudswoman for the purpose of the investigation was provided to the attorney of a private individual before filing a lawsuit in court. However, in other cases known to us, provision of personal data was conditional upon the filing of the appropriate lawsuit and the court's request in that regard. We already pointed this out in the 2019 Report and warned the police that they are obliged to handle the provision of personal data in a non-arbitrary manner and in a way that will not result in inequality.

Recommendation 136

For the Ministry of the Interior and the General Police Directorate to act uniformly when investigating complaints about police conduct and ensure the protection of personal data of the complainants

The Ombudswoman is independent and autonomous in her work, and according to the Ombudsman Act, any form of influence on the Ombudsman's work is prohibited. In this context, the communication from the police station chief to the Ombudswoman through a law firm could be characterised as an attempt to influence the work of the Ombudswoman and to send a message that taking further actions for investigating the allegations made in the complaint could result in legal proceedings, which is unacceptable.

4.1.2. Activities of the NPM: Visits to police stations and police detention units

In line with the mandate of preventing torture and other acts of cruel, inhuman or degrading treatment or punishment, in 2022, NPM representatives visited 16 police stations and two detention units in the Karlovac County and the Primorje-Gorski Kotar County Police Administrations. Visits to the Primorje-Gorski Kotar County Police Administration were conducted as follow-up visits to determine whether the warnings and recommendations given during the previous visits had been implemented.

Cooperation with police officers during the visits was satisfactory, and there were no restrictions on carrying out the mandate. NPM representatives were provided access to data and records kept in written or electronic form.

Following the visits, 27 recommendations and one warning were issued, and six new recommendations were given during the monitoring visit.

Regular visits

As part of regular visits, accommodation and transport conditions were inspected, as were records on persons deprived of liberty.

Accommodation conditions

During the visits, it was established that most police stations have facilities for accommodation of detained persons that are sufficiently large, with natural and artificial lighting, ventilation, heating, access to sanitation facilities and drinking water. However, it is unclear why measures have not been taken to align the accommodation conditions with the prescribed standards, which does not require a significant investment. For example, the walls and floors of some rooms require adaptation, as they have tiles or parquet flooring, which is contrary to the Standards of Premises in which persons deprived of liberty are held, issued by the MI. Similarly, most of the accommodation rooms have beds with wooden frames, even though the Standards do not provide for wooden beds.

Recommendation 137

For the Ministry of the Interior and the General Police Directorate to: ensure that accommodation conditions in the premises for persons deprived of liberty are in accordance with the Standards of Premises in which persons deprived of liberty are held

Recommendation 138

For the Ministry of the Interior and the General Police Directorate to: establish video surveillance in the premises where persons deprived of liberty are held

The fact that video surveillance does not cover all areas where persons deprived of liberty are held in any police station is concerning. Introducing video surveillance in all these areas would represent an additional measure of protection against potential abuse. Therefore, the introduction or upgrade of video surveillance should be a priority.

During visits, it was determined that the detainees were informed about the reasons for their arrest and their rights, including the right to legal representation. A positive example is the exercise of the right to temporary free legal aid in accordance with the CPA, which these individuals exercised. However, in the past years, it was observed that despite this possibility, persons deprived of liberty rarely requested the assistance of lawyers, with the majority waiving their right to legal representation. This is important because access to procedural guarantees in the first hours of deprivation of liberty ensures a fair trial in accordance with Article 6 of ECHR, and it is also an effective way to prevent torture and other forms of violence.

In some police stations, the case files did not indicate who conducted the search of detained women, making it impossible to determine whether the search was conducted by a person of the same sex, in accordance with Article 76, paragraph 1 of the APTA. Therefore, it is recommended that official notes regarding the search of persons deprived of liberty be made, indicating which officer conducted the search.

Furthermore, it has been shown that multiple repetitions of the recommendation to organise the work process in a way that detention supervisors are solely dedicated to their duties and are not also involved in operational and communication centre tasks were justified. In its notice the General Police Directorate claimed that monitoring of the work of police officers performed up to that point had showed that based on the number of detainees received in the detention unit, there was no justified reason for detention supervisors to perform only those tasks and that through the examination of the cases, it was established that, in addition to their roles as shift manager or assistant shift manager, detention supervisors likewise effectively performed their duties in the detention unit. During our visits, it was directly observed that detention supervisors do not supervise the detained persons as stipulated by Article 52 of the Ordinance on Reception and Treatment of Arrested Persons and Detainees and on Records of Detainees in Police Detention Units, especially when persons deprived of liberty are accommodated in premises that are not part of the detention unit but are located within police stations. This poses an additional risk of inhuman or degrading treatment. Since, according to the Ordinance, detention supervisors are responsible for the proper application of the regulations on the treatment of detainees, we deem it necessary to organise and carry out supervision of the work of the detention unit in accordance with Article 52 of the Ordinance.

Transport vehicles

It is still observed that transport vehicles do not have grab handles and seat belts in the area intended for the transportation of the persons deprived of liberty, which would minimise the risk of injuries during transport. This would be in line with the CPT standards, which require that transport be conducted in a humane manner, while ensuring personal and general safety.

Recommendation 139

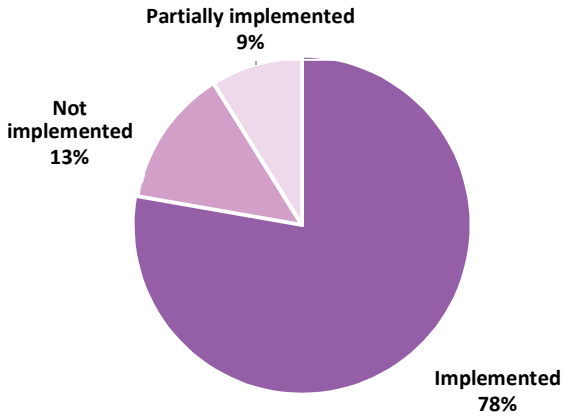
For the Ministry of the Interior and the General Police Directorate to: equip the vehicles used for the transport of detained/arrested persons with appropriate safety equipment

Follow-up visits

The follow-up visit to the Primorje-Gorski Kotar Police Administration included the detention unit and nine police stations. It was conducted to determine the level of implementation of our recommendations given after our regular visits conducted in 2017 and 2018.

During the follow-up visit, it was determined that 78% of the recommendations were implemented, 9% were partially implemented and 13% of the recommendations were not implemented and were thus reiterated.

EVALUATION OF IMPLEMENTATION OF RECOMMENDATIONS IN THE PRIMORJE-GORSKI KOTAR POLICE ADMINISTRATION



The percentage of implemented recommendations indicates a significant improvement in the accommodation conditions in facilities for persons deprived of liberty.

However, the MI and the General Police Directorate still need to find a solution for the remaining premises in police stations where the accommodation conditions are still not in line with the Standards. Since these Standards stipulate direct access to drinking water and sanitation facilities, their implementation is a priority. It is unacceptable that access to drinking water and sanitation facilities for persons deprived of liberty depends on police officers.

A positive example is the Opatija Police Station, which was relocated to a new facility where the accommodation conditions have significantly improved.

Commission for Complaints

The year 2022, the third year of the current term of the Commission for Complaints, which represents civilian supervision of the work of the police, provided an opportunity to better assess the position of the Commission in practice, the manner in which the police perceive civilian supervision and the perception of citizens regarding the effectiveness of the Commission's decisions in which complaints are deemed justified.

Recommendation 140

For the Ministry of the Interior and the General Police Directorate to: include information about further complaint procedures in their responses to citizens' complaints after each stage of internal review

According to the Police Act, if the Commission determines that a complaint is partially or fully justified, the MI is obligated to review its decision within 30 days and inform the complainant accordingly. We were contacted by citizens whose complaints were deemed justified or partially justified by the Commission but who were subsequently informed by the MI that it would stand by its decision stating that the complaint was unfounded. Such responses, in which the reasoning behind the rejection of the Commission's decision by the MI is not provided, undermine the arguments of citizens and the Commission itself. It is unknown what happens within the police system following the receipt of the Commission's decision regarding the justification of allegations made in the complaint and whether any consideration is given to improving future actions and preventing the situations that had led to the complaints. In order to ensure that citizens are informed about all possibilities of protection in accordance with the principle of sound administration, it is necessary for the police to include information about further complaint procedures in their responses to citizens after each stage of internal review.

Citizens also point out that the MI informs them that complaints regarding police treatment received via email do not meet the requirements of the PA, without providing them with information on how to remedy the deficiencies. This ultimately prevents them from accessing further complaint mechanisms, including the Commission.

The post on the website of the MI, which reads:

"*Complaints which are made after the prescribed time limit and which do not include the necessary prescribed information as specified in Article 5 of the Police Act, as well as complaints which pertain to other employees of the Ministry of the Interior or do not pertain to exercise of police powers will not be handled pursuant to the provisions of the Police Act; instead, provisions of the act regulating the state administration system will apply to them. In this case, a grievance expressed about the response of the competent police administration or organisational unit of the Ministry of the Interior will not be considered by the competent Commission for Complaints; instead, the grievance will be considered by the Internal Control Service, and its response will not be considered any further.*"

is an example of discouraging and misleading information for citizens who are trying to exercise their legal right to file a complaint. Therefore, the post on the website needs to be harmonised with the General Administrative Procedure Act and the case-law.

In that regard, in accordance with the General Administrative Procedure Act, the MI is obligated to ensure that the lack of knowledge or ignorance of the party and other persons involved in the procedure does not harm their legal rights, which is also confirmed by the judgment of the Administrative Court in Zagreb no. Uszp-4/195 from December 2021.

Recommendation 141

For the Ministry of the Interior and the General Police Directorate to issue conclusions in order to warn the complainants of the deficiencies of the complaint and to set a time limit for it to be remedied, with a warning of legal consequences if the complainants fail to do so

4.1.3. Status rights

Permanent residence

We pointed out the problematic practice of ex officio de-registration of permanent residence in several previous annual reports. We recommended that the Residence Act (RA) establish the criteria for assessing whether a person actually lives at the registered permanent residence address in order to limit the possibility of the police acting in an arbitrary manner during on-the-spot checks and evaluations of whether a person lives at the residence address or not. We also pointed out that persons would often be de-registered ex officio in cases when they actually live at the registered address, because they were not at home at the time of the on-the-spot check by the police. Likewise, we reported that by ex officio de-registration of permanent residence based on erroneous on-the-spot checks, the person's ID card is invalidated, which means that the person is in offence and cannot exercise their rights that derive from holding an ID card.

By virtue of the Decision of the Constitutional Court of the Republic of Croatia no. U-III-1264/2020 from July 2022, the constitutional complaint which was filed by a citizen, former tenancy rights holder and returnee, who had lived in a rented apartment from 2008 to 2020, but was temporarily absent from the apartment due to impaired health, was adopted. The Constitutional Court established that the person's freedom of movement and freedom to choose their residence, as referred to in Article 32, paragraph 1 of the Constitution and Article 2, paragraph 1 of the Protocol No. 4 to the ECHR, had been violated. Since the CSORHC concluded that the apartment was not being used by the citizen, even though they had previously allowed him to move to a different housing unit due to impaired health, it initiated proceedings for de-registration of permanent residence before the police administration, which ultimately did occur and was later confirmed as lawful by the Administrative Court in Zagreb and the High Administrative Court of the Republic of Croatia. In regard to the conclusion by the administrative bodies and courts that the citizen was not living at the registered address, which was based on on-the-spot checks as key evidence, the Constitutional Court determined that information on the performed on-the-spot checks was limited because no data were provided on the time when and the manner how the checks were performed. Additionally, the facts were not disputed that the rent and utilities had been regularly paid, that mail had been delivered to that address, that that address had been stated in his medical documentation, that he does not own any other real estate in Croatia and that no other address of residence had been determined for him.

The Constitutional Court stated that a person may be temporarily absent from their home, for weeks or months, due to many reasons, but they still have the intention to permanently reside there. When such cases result in ex officio de-registration of permanent residence or create an obligation for citizens to report such situations to the police in order to avoid ex officio de-registration of permanent residence, this represents a significant limitation of the freedom of movement. The Constitutional Court believes that the administrative body, by requesting that the complainant prove that they live at the permanent residence address so that they would not be de-registered from it, overburdened the complainant, which we also indicated in our assessment regarding adoption of the RA in 2012. Ex officio de-registration of permanent residence leads to serious legal consequences for citizens, primarily the obligation to return the ID card, without which they are not allowed to move and cannot exercise a number of their rights. The Constitutional Court therefore concludes that the measure taken in the relevant case was not proportional to the legitimate aim which was intended to be achieved, and that interference in citizens' freedom of movement and freedom to choose residence is not necessary in a democratic society.

In this decision, as in its other decisions, the Constitutional Court emphasised the importance of the provision of Article 9 of the GAPA, which stipulates that the competent body shall independently establish the facts and circumstances in a procedure, and that is shall decide on the administrative matter based on such established facts and circumstances. According to Article 8 of the GAPA, competent bodies are obligated to determine the true state of affairs in the procedure, and for that purpose, they have to determine all facts and circumstances which are important for adopting a lawful and correct decision in an administrative matter.

We also present the case in which the CPII rejected a citizen's request for approving the national benefit for older persons, stating that the legal condition of continuous permanent residence lasting for 20 years had not been fulfilled, since it accepts only certificates issued by the MI, which the citizen could not obtain. The citizen submitted other documents proving that he had indeed resided at the indicated address during the period when, according to the MI, he did not have a registered permanent residence address (written statements from other tenants, certificate confirming he was a representative of the building's tenants in the disputed period); however, the CPII did not take them into consideration. The Police Administration stated that failing to register permanent residence does not mean that the citizens did not reside at a specific address, even though they failed to report that circumstance to the police. Police administrations and police stations issue certificates confirming that a person had a registered permanent residence address in a specific period, but that does not confirm whether the person actually lived at that place and address.

This should be the subject of assessment by a body which conducts a specific procedure in which the fact of residence or actual living at a certain place is the condition for acquiring a specific right. Precisely this fact should be established by assessing all available evidence, and not based solely on the certificate of permanent residence.

Recommendation 142

For the Ministry of Justice and Public Administration to determine, in cooperation with the Ministry of the Interior, the manner of establishing the actual place of residence for persons who are in the process of exercising rights for which permanent residence is a condition before public law bodies

Based on the above, it is evident that the insistence of public law bodies that a certificate of permanent residence is the only proof of residence led to an inability to exercise rights, since permanent residence is a condition for numerous citizens' rights. Therefore, in procedures where permanent residence is a condition for acquisition of a right, all public law bodies should establish the fact of residence by evaluating all available evidence, and not solely based on the certificate of permanent residence, which arises from Articles 8 and 9 of the GAPA, i.e., the principle of establishing the substantive truth and the principle of independence and free evaluation of evidence. As this would lead to a significant change in the work of the bodies acting in connection with the exercise of citizens' rights in different situations and could result indiffering approaches, it is necessary to define the manner in which a person's actual place of residence should be established (address where they receive mail, bills, involvement in the school system, registered address of family members, etc.).

Citizenship

We received complaints regarding the application of Article 5, paragraph 2 of the Croatian Citizenship Act (CCA), under which a person over the age of 21, born abroad, one of whose parents was a Croatian citizen at the time of their birth, may acquire Croatian citizenship based on descent if they submit a request for the registration in the Registry of Citizens of the Republic of Croatia by 1 January 2023, and

the MI had previously determined that they uphold the legal order and have paid the due public contributions, as well as that there are no security obstacles for their admission to Croatian citizenship. Diplomatic missions and consulates of the Republic of Croatia have incorrectly requested applicants to fill out a questionnaire form for determining Croatian citizenship instead of applying for registration in the Registry of Citizens. An additional problem is the fact that the MI indirectly decided on these matters, even though it is not authorised to decide on matters concerning the acquisition of Croatian citizenship based on descent. Article 24, paragraph 2 of the CCA stipulates that matters concerning the acquisition of Croatian citizenship based on descent are handled by the competent administrative body of a county or the City of Zagreb.

Since the amendments to the CCA entered into force on 1 January 2020, including the provision of Article 5, paragraph 2, there has been no specific form for acquiring Croatian citizenship based on descent in accordance with that Article. However, on the website of the MI, (https://mup.gov.hr/gradjani-281562/moji-dokumenti-281563/drzavljanstvo-325/upute-o-proceduri-stjecanje-hrvatskog-drzavljanstva/4746) there is still a notification which is not in accordance with the CCA. *"The application for the registration in the Registry of the Citizens of the Republic of Croatia based on the provision of Article 5, paragraph 2, must be submitted in person at a police administration or a police station, according to the location of granted temporary or permanent stay. If the applicant does not have granted temporary or permanent stay in the Republic of Croatia, the application is submitted in person at a diplomatic mission or consular post of the Republic of Croatia abroad."* As a result, the competent body did not adopt decisions regarding applications for acquisition Croatian citizenship based on descent in accordance with this provision. Instead, the MI conducted the procedure based on Article 30, paragraph 1 of the CCA, which pertains to the determination of Croatian citizenship. According to Article 5, paragraph 2 of the CCA, the role of the MI is merely to determine whether the applicant upholds the legal order and has paid the due public contributions, as well as that there are no security obstacles for their admission to Croatian citizenship. Requiring that the *"application for registration in the Registry of the Citizens of the Republic of Croatia based on the provision of Article 5, paragraph 2, must be submitted in person at a police administration or a police station"* has no basis in the CCA and is contrary to Article 24, paragraph 2 of the CCA. It is also unclear why conditions typical for acquiring citizenship by naturalisation have been imposed on the administrative procedure for the registration of the individuals who are considered Croatian citizens from birth in the Registry of the Citizens of the Republic of Croatia. This further supports the argument that there is an unusual "hybridisation" of the norm and practice regarding Article 5, paragraph 2 of the CCA.

Regarding the acquisition of citizenship based on being a member of the Croatian people, in accordance with Article 16 of the CCA, the MI has published the Information on the procedure for acquiring Croatian citizenship on its website (https://mup.gov.hr/gradjani-281562/moji-dokumenti-281563/drzavljanstvo-325/upute-o-proceduri-stjecanje-hrvatskog-drzavljanstva/4746), specifically indicating the documents that applicants can use to prove their previous declaration of nationality in legal transactions.

From the legal provision and the Information, it is evident that being a member of the Croatian people can be proved by providing a single public document, and the Information provide examples of such documents.

Recommendation 143

For the Ministry of the Interior and the Ministry of Foreign and European Affairs to: comply with the provisions of the General Administrative Procedure Act in the procedures for acquiring and determining Croatian citizenship when receiving submissions from applicants

Recommendation 144

For the Ministry of the Interior to: conduct the procedures for acquiring citizenship within the time limits stipulated by the General Administrative Procedure Act

Therefore, obtaining all of the listed public documents is not required. However, in the List of documents for acquiring Croatian citizenship based on being a member of the Croatian people, which is provided to applicants at the diplomatic missions and consular posts of the Republic of Croatia in the Republic of Serbia, the entire list of required documents is given, with a note stating that "applications" for acquiring Croatian citizenship will not be accepted unless all the documents listed are submitted."

Failure to accept applications without all the "requested" documents violates the GAPA, which stipulates that the civil servant is obliged to receive and acknowledge the receipt of the submission, and if it contains any deficiencies, the applicant should be notified thereof via a conclusion and given a time limit for remedying the deficiencies.

In our previous reports, we emphasised the issue of the lengthiness of the process of acquiring Croatian citizenship. The MI states that the length of the process depends on the completeness of the documentation submitted with the application, the active participation of the applicant in the process and their motivation to conclude the process as soon as possible. However, the following case indicates otherwise. The complainant submitted an application for acquiring Croatian citizenship based on being a member of the Croatian people and was only asked to supplement it after five years, following our request for information on the case from the MI.

Residence of foreigners

According to the Act on Foreigners (AF), among other requirements, third-country nationals must prove that they have sufficient means of subsistence when regulating their stay in Croatia (temporary stay and long-term residence or permanent stay). The method of calculation and the amount of the minimum means of subsistence are stipulated in the Regulation on the Method of Calculation and the Amount of Means of Subsistence for Third-Country Nationals in the Republic of Croatia, which establishes that the amount is determined based on the official data of the CBS on the average monthly net salary paid in the previous year. As highlighted in the analysis of this issue by the CRP Sisak[xxxii], a third-country national who is single would need to have HRK 3,564.50, a family of two would need HRK 4,099.17, a family of three would need HRK 4,812.07 and a family of four would need HRK 5,524.97. This means that the conditions for regulating the stay of third-country nationals have become stricter compared to the 2018 Regulation. Before, a third-country national who was single had to have means of subsistence amounting to HRK 2,400.00 per month, a family of two needed HRK 3,400.00, a family of three needed HRK 4,200.00 and a family of four needed HRK 5,000.00. The more unfavourable conditions for stay particularly affect those third-country nationals who belong to the Roma national minority and returnees, who are socially disadvantaged individuals with long-term temporary stay in Croatia. These individuals, if they are not family members of Croatian citizens, could not regulate permanent stay before because they did not have sufficient means of subsistence. Now, they are once again at risk of being unable to regulate long-term residence or permanent stay, despite having lived in Croatia for many years. The analysis mentions the case of a recipient of a family pension who lived

in Croatia from 1981 to 1995 and again from 2009 until today. She is currently staying in Croatia based on her 13th approved temporary stay permit on humanitarian grounds. Her requests for permanent stay submitted in 2014 and 2020 were rejected precisely due to insufficient means of subsistence, which would now represent an obstacle for her to regulate long-term residence as well. Consequently, her acquisition of Croatian citizenship is likewise restricted under Article 19 of the Act on Amendments to the CCA, which stipulates that persons who had permanent residence in Croatia on 8 October 1991 and who have been granted permanent stay are considered to meet the requirements of necessary residence in the procedures for acquiring Croatian citizenship.

Recommendation 145

For the Ministry of the Interior to: draft amendments to the Act on Foreigners which will enable the granting of long-term residence by taking into account long stay in Croatia based on temporary stay permits on humanitarian grounds

It is clear that granting indefinite stay permits on humanitarian grounds is not an effective solution in such cases. This approach likewise disregards the opinion of the EC^{t}HR in the case *Hoti v. Croatia*, which highlighted the obvious lack of prospects for stays granted on such grounds, since individuals can live long-term with this status without the possibility of ever obtaining long-term residence (and consequently Croatian citizenship). Additionally, this status in Croatia is uncertain, as it depends on one-year extensions of stay permits based on the discretionary assessment of the MI. An effective solution may only be achieved through the creation of a legal framework that will adequately recognise the fact that these individuals have a strong connection to Croatia due to their long stay in Croatia and that their status is often a consequence of the transition period.

Regarding the status of individuals who have recently immigrated, particular attention is drawn to cases where stay permits are not granted to underage children of employed spouses who have been granted stay permits based on employment. We were thus informed of a case where a stay permit was not granted to a child, despite the consent of the MSE regarding the implementation of preparatory Croatian language classes and a certificate issued by the primary school confirming that the child has been enrolled in the third grade.

In another case, stay permits were not granted to children aged nine, six and five, which the MI explained by stating that Article 63, paragraph 2 of the AF applied, according to which temporary stay for the purpose of family reunification may be granted as an exception, only if the third-country national with whom family reunification is requested has already been granted temporary stay for an uninterrupted period of at least one year. Since the employed parents in these specific cases were granted their first stay permits, the criterion of having a previous stay permit lasting one year was not met, and therefore, stay permits were not granted to children. The MI also removed the possibility of granting temporary stay to children on humanitarian grounds or for other purposes, and it issued a decision on return, stating that the children must leave the European Economic Area within 15 days. Despite the explanation that this provision of the AF is in line with the Council Directive 2003/86/EC on the right to family reunification, the Directive permits the stipulation of the requirement of prior lawful stay for a period of two years before family reunification is possible; however, this is only an option and not an obligation. This results in a situation where parents are legally working in Croatia, while their children are supposed to be separated from them for at least one year. Furthermore, the preamble of the above Directive states that family reunification is a necessary way of making family life possible, which helps to create sociocultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion; it also states that Member States should also be able to apply the Directive when the family enters together. The above cases were referred to the Ombudswoman for Children for examination of the practices of the MI, in order to protect the rights and best interests of the children.

Another recorded case pertained to a foreign national who had been granted stay permits based on her marriage to a Croatian citizen since 2018; her spouse passed away in 2021, and her previously granted stay was revoked by the MI one year later. It was established that the conditions had not been met for granting autonomous stay under Article 69, paragraph 1 of the AF, which stipulates that autonomous stay may be granted to a third-country national who has been granted temporary stay for the purpose of family reunification for an uninterrupted period of three years if he or she holds a valid foreign travel document, has means of subsistence, health insurance, has not been prohibited from entering Croatia and staying in Croatia and does not pose a threat to public policy, national security or public health. However, in this case, the MI rejected the possibility of applying the exception under paragraph 2 of the same Article, which pertains to the death of a spouse and temporary stay granted for the purpose of family reunification for a period of three years. Therefore, since the individual had been granted temporary stay for an uninterrupted period of four years based on her marriage to a Croatian citizen, a recommendation was given to the MI to reconsider the possibility of granting autonomous stay. It is evident that the legal provision emphasises the formal stay permit for an uninterrupted period of three years rather than the actual duration of the family unit/marriage or life partnership. The position of the MI, that such an interpretation of the regulations would be contrary to the purpose of the third-country national's stay in RC and the legislator's intent, is incorrect; the Ministry refers to Article 87 of the AF, which stipulates that the MI shall revoke the temporary stay permit of a third-country national if the conditions under which temporary stay had been granted cease to exist. The MI disregards the fact that the foreign national has no legal obligation to inform the MI about the death of their spouse, and it disregards the legal consequence of revocation of the decision, and the fact that the document is repealed because even though its further legal effect is no longer possible, the legal consequences produced prior to its revocation remain in force. Ultimately, we believe that if the position of the MI stated above were to be accepted, we would have two virtually identical provisions in practice, rendering the exception non-existent.

4.2. Applicants for international protection and irregular migrants

Regarding the treatment of applicants for international protection and irregular migrants, the Ombudswoman acts in accordance with her competences under the Ombudsman Act and the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Arrival of irregular migrants and applications for international protection

Migration is a global challenge due to the impact it has on the countries of origin, transit and destination. It changes the population structure and, due to the large number of people moving along migration routes, requires a collective solution from multiple states. In 2015, the EU witnessed a significant influx of applicants for international protection and irregular migrants, which required a multi-level response, primarily calling for solidarity in the approach of the Member States and a fairer division of responsibilities. Therefore, since the refugee crisis in 2015, when the EU recorded 1.25 million first-time applications for international protection, a reform of the Common European Asylum System has been in the works. In 2020, the EC presented the EU Pact on Migration and Asylum (the Pact), which, among other things, defines faster procedures, proposes new possibilities for demonstrating solidarity among Member States and suggests a revision of the Dublin Regulation,

which determines the state responsible for processing asylum applications. The Dublin Regulation has been the subject of dispute among Member States, mainly because the state of first entry has been responsible for asylum seekers in the majority of cases. However, Member States and the European Parliament still need to reach an agreement on all the proposals that make up the Pact.

In such circumstances, Croatia was finalising the process of joining the Schengen Area, which it joined on 1 January 2023, after fulfilling 281 recommendations in eight areas of the Schengen acquis, 145 of which related to the area of external border control. This naturally entails the responsibility for external border control and application of the Schengen acquis. The focus of public attention in recent years has been on external border control and allegations of pushbacks, calling for effective investigation of such allegations.

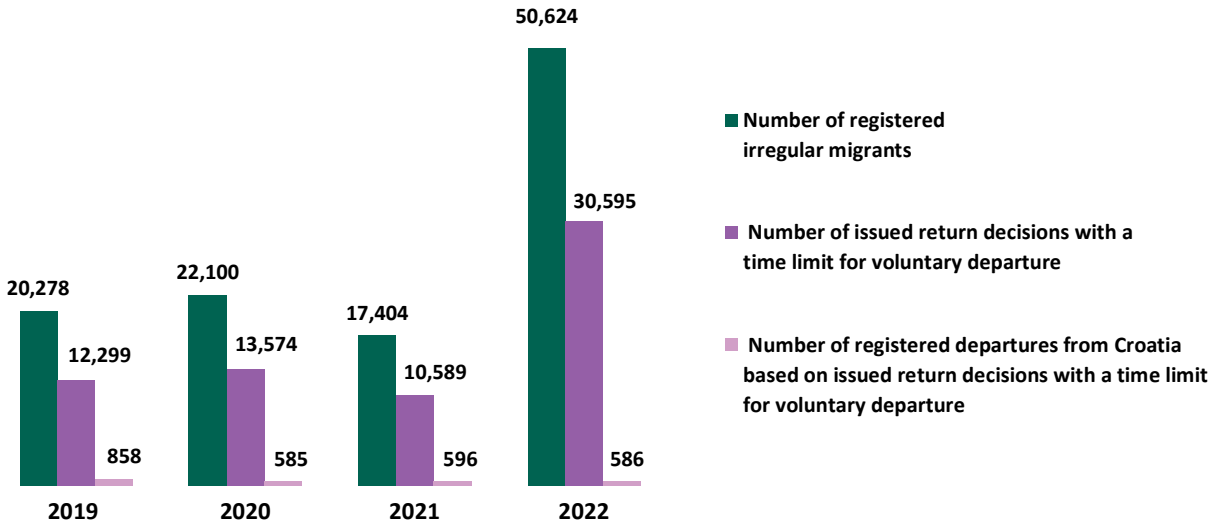
During 2022, there was a decrease in the number of complaints regarding pushbacks, but CSOs continue to report testimonies from individuals about pushbacks and the inability to apply for international protection.

However, during 2022, we received a large number of reports from citizens about groups of people present in Croatian territory who wanted to apply for international protection. These reports often included the names of individuals, locations and sometimes information about medical conditions requiring emergency medical assistance. Acting on such reports, police officers visited the indicated locations and carried out procedures with different outcomes. According to the MI, in some cases, individuals had already left the indicated area by the time the police officers arrived. Sometimes, individuals applied for international protection and, following the procedure at police stations, they were subsequently taken to reception centres for applicants for international protection. In the case of some individuals, return measures were applied, most commonly by issuing decisions with a time limit for voluntary departure from the EEA, which was usually seven days.

The large number of individuals who received return decisions with a fixed time limit for departure from the EEA and their gathering at railway stations in Rijeka and Zagreb, attracted public attention. For a number of years, the MI has been issuing return decisions to individuals who irregularly crossed the border and failed to apply for international protection in the territory of RC, usually with a time limit of seven days for voluntary departure from the EEA. However, a significant number of migrants find it difficult to comply with these decisions because they do not have personal documents, and obtaining travel documents is generally not possible due to the absence of diplomatic missions and consular posts in Croatia. We have repeatedly recommended that the MI, in accordance with the Act on Foreigners, provide assistance in organising returns primarily by entering into agreements with other government bodies, international organisations and CSOs. In 2022, the MI signed an agreement with the International Organization for Migration (IOM) on cooperation in the implementation of a project for assisted voluntary return and reintegration, and assistance was provided to nine individuals for their voluntary return to their countries of origin.

According to data of the MI, in 2019, 20,278 irregular migrants were registered and 12,299 were issued voluntary return decisions; in 2020, 22,100 were registered and 13,574 were issued such decisions; in 2021, 17,404 irregular migrants were registered and 10,589 were issued return decisions; in 2022, 50,624 were registered, and 30,595 were issued return decisions. However, only a small number of individuals have been documented as having left the territory of Croatia via border crossing points, and it is unknown whether they are still in Croatia, whether they have gone to other EU Member States or have left the EEA.

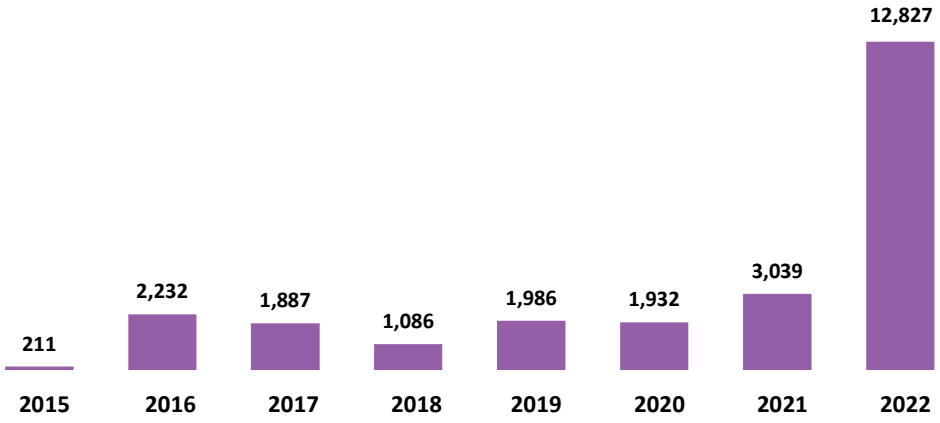
VOLUNTARY RETURNS



In 2022, the highest number of applications for international protection was recorded since 2004, when the first Asylum Act had been adopted. A total of 12,827 individuals applied for international protection, with 10,087 applying at border police stations and 137 at airport police stations.

In 2022, only 21 applications were approved, 81 were rejected and 3,406 procedures were discontinued. According to the MI, due to administrative burdens resulting from the record number of international protection seekers and the need to conduct the Dublin Procedure for over 3,430 individuals who expressed their intention to apply for international protection but did not submit the application, the process of discontinuing proceedings is still ongoing. Given the number of applicants for international protection and the complexity of the administrative procedure for deciding on the applications, it is necessary to increase the number of officials working on processing the applications and to increase the reception capacities in the reception centres for applicants for international protection in Zagreb and Kutina.

APPLICANTS FOR INTERNATIONAL PROTECTION



Immigration detention centres – exercise of rights

During 2022, we paid special attention to immigration detention centres, where we examined accommodation conditions, treatment and protection of their rights. During NPM visits and investigative procedures, we found that all three detention centres (in Tovarnik, Trilj and Ježevo) are investing in reception conditions by constructing new or improving existing accommodation facilities. However, difficulties have been identified in exercise of rights guaranteed to persons deprived of liberty who are accommodated in these centres.

Croatia (and the EU) provides various forms of protection, assistance and support to persons accommodated in the detention centres, including families with children, pregnant women and elderly persons. They are often not familiar with the legal system and the protection provided for them, they do not speak the language and they may lack trust in official persons and/or be unwilling to talk about their traumatic experiences. Therefore, it is essential to inform persons accommodated in reception centres about their rights in an appropriate manner. The rights of persons deprived of liberty are of little significance if such persons are not aware of their existence. In the context of accommodating foreigners in centres, clear and precise information about their rights is crucial, as is information regarding whom they may contact and how if they need protection and assistance, including access to legal aid and complaint mechanisms. As persons deprived of liberty, foreigners in the centres also have to be aware of their rights and obligations during their stay. This includes information about healthcare, maintaining hygiene and personal care, visits, telephone use, access to fresh air, nutrition and religion, security screening and search procedures, receiving letter post, packages and cash, etc. They should also be informed about the reasons for their placement in the centres and the intended duration of their stay. Being informed about rights and applicable procedures involves prompt communication in a language they understand.

In 2022, we found that insufficient and inadequate information was provided to persons accommodated in all three centres regarding their rights. While documents containing information about rights were posted on notice boards in the centres, they were often buried among various other pieces of information and were not translated into the necessary languages (which are the only languages used by some individuals). During our conversations with some of the foreigners, they generally stated that they were unaware of the reasons for their placement in the centre or the intended duration of their stay, nor did they know whom to contact for legal or other assistance. Given the importance of certain information, it is necessary to highlight and communicate them in an accessible, visible and clear manner.

Recommendation 146
For the Ministry of the Interior to: ensure that information on rights in immigration detention centres are highlighted and communicated in an accessible, visible and clear manner

Recommendation 147
For the Ministry of the Interior to: draft a proposal of the amendments to the International and Temporary Protection Act that will regulate the judicial review of lawfulness of decisions on restriction of freedom of movement in the same way as it is currently regulated for irregular migrants under the Act on Foreigners

Recommendation 148
For the Ministry of the Interior to: ensure adequate translation and interpretation services during the process of deprivation of liberty of irregular migrants and applicants for international protection

Recommendation 149
For the Ministry of the Interior to: ensure access to effective complaint mechanisms in the reception centres for foreigners

By conducting an investigative procedure based on the complaints of applicants for international protection and members of their families, as well as information received from CSOs, it was determined that translation and interpretation services had not been provided for them in the process of issuing decisions on the restriction of freedom of movement by the border police station. Such actions are contrary to Articles 7 and 8 of the GAPA, i.e., to principles of establishing the substantive truth and providing assistance to the party, as well as to Article 30, which stipulates that the party must be provided with an opportunity to express their opinion about facts, circumstances and legal issues important for adopting a decision regarding the administrative matter. They also complained that they had not been informed about the reasons for their deprivation of liberty and that they did not know the status of their cases. Some stated that judicial proceedings had been initiated regarding the decision to restrict their freedom of movement, but upon review of the file, no documents related to the initiated proceedings were found. In order to ensure timely judicial control of the lawfulness of all decisions on restriction of the freedom of movement.

During NPM visits and investigative procedures, persons accommodated in the centres raised issues related to food, telephone (un)availability, inadequate healthcare and the conduct of police officers, among other concerns. However, none of those complaints were recorded in the centres in 2022. Since the right to lodge complaints is guaranteed, it is important to make their lodging easier by providing clear information, creating complaint forms and installing complaint boxes in visible locations. For complaint mechanisms to make sense, they must be accessible, involve effective complaint procedures and adhere to principles of independence, impartiality and confidentiality. Access to effective complaint mechanisms is a fundamental guarantee against abuse.

Persons accommodated in Ježevo complained about the restriction of access to fresh air. However, since no records are kept regarding this matter, it was not possible to investigate the complaint allegations. Therefore, it would be beneficial to keep such records. Furthermore, there are two rooms in the Centre that serve a dual function: conducting stricter police surveillance and isolating persons suspected or confirmed to have an infectious disease. Accommodated persons stated that they were held in these rooms for several days without justification. However, due to the absence of records, it was not possible to verify these claims. Therefore, keeping such records is necessary.

During NPM visits, it was observed that contact between the accommodated persons and the outside world, particularly with family members in their countries of origin, was made difficult. Upon admission to the centres, persons receive phone cards provided by the Croatian Red Cross. However, the balance on these cards is quickly depleted due to international calls. There are often difficulties in obtaining new phone cards, and calls cannot be made to some countries.

Applicants for international protection and irregular migrants deprived of liberty are guaranteed the right to free legal aid under certain conditions. However, during NPM visits and investigative procedures, limited access to legal aid providers was observed in all three centres, and it was also reported by the CBA. The Ordinance on Accommodation in the Reception Centre for Foreigners and the Method of Calculating the Costs of Forced Removal (the Ordinance) specifies the manner in which visits by lawyers can be arranged. The Ordinance states that legal aid providers may visit persons in the centres in accordance with the provisions applicable to all visitors. They must provide written notice of their visit two days in advance, and the visit may be denied if it is determined that the visitor is not the person that had been announced; if they pose a threat to public policy, security, and health; or if they are prone to improper behaviour or infringement of regulations. The duration of the visit is limited to one hour, with exceptions being made only in rare cases.

Recommendation 150

For the Ministry of the Interior to: ensure unimpeded access for lawyers to reception centres for foreigners

In addition to having to announce their visit two days in advance, lawyers who are not on the list of providers of free legal aid and do not have power of attorney because they are visiting clients for the first time, come to the centres only as visitors and not in their capacity as lawyers. Accommodated persons must consent to the announced visit and the visitor before the visit can take place. Due to this method of organising lawyer visits and the additional need to coordinate schedules with interpreters, access to legal protection is hindered and can lead to missed deadlines for pursuing legal remedies, which are typically very short. Considering the described difficulties in telephone communication, communicating with lawyers by telephone is also challenging, especially when contacting lawyers who are not on the list of providers of free legal aid for the first time for the purpose of granting power of attorney for representation. Subsequently, if they want to establish faster communication, accommodated persons wait for a call from the lawyer in front of a telephone booth.

Therefore, after the visits, we warned that this is contrary to international standards that guarantee the right of third-country nationals to unimpeded access to a lawyer from the very beginning of the restrictions of freedom of movement, without any limitations.

Regarding contact with a lawyer, it is necessary to take into account all the difficulties and circumstances in which migrants find themselves in the process of being issued decisions on expulsion and restriction of freedom of movement, as well as the lack of clear instructions on the possibilities of contacting a lawyer and other legal aid providers. Irregular migrants in police stations who are in the process of being issued a decision on expulsion and deprivation of liberty are given a list of legal aid providers, but most of the persons accommodated state that they are not aware of the purpose of the list, and some claim that they did not receive it at all.

Directive 2008/115/EC guarantees that international and non-governmental organisations shall have the possibility of visiting centres under certain conditions, which was also transposed into the Act on Foreigners. However, the Ordinance conditions their visits on a signed cooperation agreement with

prior notification of the visit according to criteria stipulated for all visitors. UNHCR has access to the centres without a cooperation agreement, but based on its mandate, UNHCR provides assistance to applicants for international protection, but not to irregular migrants. A cooperation agreement was concluded with the CRC, which undertook to organise and implement psychosocial support and activities for family reunification at its own expense and within its capabilities. The CRC visited the centres in Tovarnik and Trilj twice during 2022 (until the date of NPM visits in October) and it visited Ježevo 41 times, while UNHCR visited Tovarnik and Trilj twice and Ježevo four times. Considering the number of applicants for international protection and irregular migrants accommodated in the centres throughout the year – for example, one centre accommodated 534 individuals, including ten families with children, a pregnant woman, an unaccompanied child and 76 individuals who had expressed their intention of applying for international protection – such scope and number of visits are insufficient. In this regard, the ECtHR, in the judgment 15670/18 and 43115/18 in *M.H. and Others v. Croatia*, stated that Article 3 of ECHR was violated in its substantive aspect based on the fact that children were detained for two and a half months in a centre with a high level of police surveillance and where no activities were provided to occupy their time. Therefore, it is necessary to allow CSOs to have greater access to the centres, especially those that provide additional support, legal and other aid, organise education sessions, workshops and playtime activities for children, and so on.

Recommendation 151

For the Ministry of the Interior to: allow civil society organisations to have access to the immigration detention centres

System of supervision and accountability for respecting rights

When police officers encounter an irregular migrant or a group of them, they are obliged to assess whether there are any persons among them who require assistance or protection, such as victims of human trafficking, children without adequate parental or other care, persons coming from areas where their lives or freedoms would be at risk, persons requiring emergency medical assistance and similar cases. Based on this assessment, the prescribed procedure should be initiated. If there are no such needs, and there is no other basis for them to legally stay in Croatia, the police are obligated to take measures to ensure that person's return to their country of origin or to the country from which they directly entered Croatia. Therefore, police officers have a challenging task of verifying circumstances which are sometimes hard to detect, such as indicators of human trafficking and compliance with numerous legal safeguards. It is necessary to document all actions in order to be able to monitor this complex task.

The task of the police is somewhat different when police officers discourage persons from circumventing the checks at border crossing points (Schengen Borders Code, Article 13, paragraph 2). This refers to actions at the so-called green border, when individuals abandon their attempt to cross the state border due to the presence of official personnel in the border area.

In such cases, if a person has entered the national territory, they can no longer be discouraged; instead, it is necessary to conduct the legally prescribed procedures, which include conducting an individual assessment of the person's need for protection. According to information provided by the MI, actions of discouragement are not recorded, which makes it difficult to monitor and supervise such actions.

It can be challenging to determine in which specific situations discouragement is permitted and in which it is not, especially considering that the border is not established and regulated in all parts. We have dealt with cases where the application of measures of discouragement was subject to investigation. In relation to this, guidelines of one border police station were published in the media in 2022, stating that during discouragement from the depth, a group leader should be present, that

discouragement should be dispersed and that it should be carried out by police officers who have previously dealt with migrants. Considering that discouragement should not be applied to individuals who have entered the national territory, we requested clarification from the MI on how discouragement can be implemented "from the depth", which police actions toward migrants could precede discouragement and how discouragement, which is based on positioning, can be dispersed. The MI stated that "discouragement from the depth" is merely a colloquial term used in the guidelines of that border police station to denote a location at the state border that cannot be considered part of the Croatian national territory because that specific section of the border is undefined.

Recommendation 152

For the Ministry of the Interior to ensure that precise terminology is used in the instructions provided to police officers regarding actions at the border

Recommendation 153

For the Ministry of the Interior to document discouragement actions and other activities
at the border

They further explained that actions toward migrants which precede discouragement involve spotting individuals, directing police patrols to the expected irregular crossing points and giving verbal and non-verbal signals, as well as sound and light signals. Regarding dispersion, its aim is to prevent the spread of COVID-19, conflicts between different ethnic groups, reduce the number of individuals in a group and prevent accidents due to unfavourable terrain configuration, weather conditions or minefields. However, to avoid the possibility of different interpretations of the terms "from the depth" and "dispersion," and consequently different actions taken by officials, it is necessary to use precise terminology in the instructions provided to police officers. Additionally, it is important to record discouragement actions and other activities at the borders, especially in light of frequent and long-standing allegations of pushbacks, which was also recommended by the CPT after their visit in 2020.

In 2022, the Independent Mechanism for Monitoring the Actions of Police Officers of the Ministry of the Interior in the Area of Illegal Migration and International Protection (IMM) operated in Croatia. It was established in 2021 in order to ensure that police actions are in line with EU law and international obligations. The IMM included the Academy of Medical Sciences, the Academy of Legal Sciences, the Croatian Red Cross, the Centre for Cultural Dialogue and an independent legal expert. In June 2021, the MI signed a one-year Cooperation Agreement with those organizations. It was defined in the Agreement that the activities of the IMM would include observing the actions taken by police officers at border crossing points, in police stations and police administrations, conducting announced visits to the green border and inspecting finalised documents related to complaints about alleged illegal treatment of irregular migrants and applicants for international protection (which had become final within one year before the Agreement was signed).

However, the IMM also examined individual cases that were not yet final and regarding which we conducted investigative procedures. In one of those cases, the IMM acted based on a video published in the media in October 2021, which suggested the possibility of police violence at the border. Just two days after the video was released, the IMM visited the relevant locations, held a meeting with representatives of the MI and established its findings. At the time of the IMM's activities, the criminal investigation had only just begun and the criminal proceedings regarding the incident were still pending, so it was evident that the case had not yet been finalised. Similarly, in another investigative procedure related to a case that likewise received media attention, as the competent institution, we conducted an interview with the complainant and requested the MI to investigate allegations of illegal

actions taken by the police toward her and her children. The MI responded that the IMM had taken over the investigation of that case.

We generally welcomed the establishment of the IMM, as we believed that it would provide additional insight into the actions of police officers in the area of illegal migration and international protection. However, it must be emphasised that the IMM, as a mechanism established based on an agreement, cannot replace or assume the duties of competent institutions to investigate allegations of illegality or irregularities in the work of the police. In its Semi-Annual Report for 2021, the IMM itself emphasised that it is not a "complaint" or "internal affairs" supervisory body, but rather "a body of limited competence, whereby precisely the competences of other stakeholders in the general system of police monitoring condition the competence of the Mechanism." Therefore, it is important for the MI, within the scope of its competence, to investigate complaints regarding the actions of police officers and to provide authorised bodies with access to all information and documentation upon request.

Regarding the work of the IMM, the Advisory Board has been established as an informal body with the task of making recommendations for the enhancement of the effectiveness and independence of the IMM's work. We are members of this Advisory Board, together with the EC, the FRA, FRONTEX, the IOM, the UNHCR and the Ombudswoman for Children. In fulfilling its mandate, the Advisory Board issued recommendations regarding the Annual Report of the IMM published in 2022. In them, it emphasised the need to expand and clearly define the scope and mandate of the IMM in order to effectively monitor the protection of fundamental rights at external borders. This particularly includes ensuring protection for the right to effective access to asylum procedures, the principle of non-refoulement, the prohibition of collective expulsions and the prohibition of torture and other forms of ill-treatment. The Advisory Board also believed that unannounced visits to the green border and consultation of primary and secondary sources of relevant information should be allowed, particularly highlighting the right to review all documents necessary for independent monitoring. Furthermore, the Advisory Board believed that the Annual Report of the IMM would benefit from including evidence supporting the findings and establishing a clearer link between observations and interviews conducted during monitoring and the conclusions drawn from those observations. It also suggested that the Annual Report of the IMM could provide additional information on the specific methodology used during interviews with migrants and that the comprehensive methodology used to reach individual conclusions should also be stated (e.g., types of primary and/or secondary sources, list of interviews with stakeholders, etc.). Other recommendations focused on strengthening cooperation and relationships with stakeholders, the public and the media, as well as launching a public call for the selection of new/additional members of the IMM based on objective criteria to ensure diversity and expertise among the members.

In November 2022, a new Cooperation Agreement was signed, extending the work of the IMM for an additional 18 months and involving the same stakeholders. We commend the fact that the new Agreement includes certain positive changes, but we emphasise that it is not stipulated that the IMM will oversee all police actions, whether recorded or unrecorded, particularly those related to access to the international protection system and the prohibition of collective expulsions.

It is also unclear what review of data and files entails, and the method of data collection is not sufficiently clear. Similarly, although unannounced observations at the green border are stipulated, they still require prior written notice. Finally, for the monitoring mechanism to truly fulfil its purpose, it must meet the complex requirements of independence and effectiveness.

During 2022, FRA published guidance for establishing possible mechanisms to monitor fundamental rights compliance at the EU external borders, which, in eight sections, sets out the requirements for independence and effectiveness, largely based on the criteria of the so-called Paris Principles (which

establish minimum standards that NHRIs must meet to be considered credible and effectively perform their tasks), as well as other international standards. According to this guidance, the powers of the monitoring mechanism should be stipulated by law, its effectiveness and independence should be periodically evaluated based on objective indicators, and members should be recruited through transparent procedures to ensure independence and operational autonomy. Requirements are also outlined regarding the scope of action (such as unimpeded access to all border-related activities at any time, without any undue geographical and procedural limitations); powers (such as the ability to make unannounced visits to all areas where police officers operate, access to documents, registers and records, including files, video and electronic records); expertise of members; funding (sufficient and in line with the principle of independence); reporting, transparency and accountability (such as publicly presenting findings and recommendations to competent authorities and the national parliament, external and independent evaluation of the mechanism's independence in accordance with professionally recognised standards); synergy with existing mechanisms (especially national human rights institutions and ombudsman institutions) and cooperation with the migration authorities.

From the above, it follows that after the initial phase of introducing the IMM as a "pilot" project in 2021 and renewing the Agreement in 2022, a decision will need to be made on its introduction as a monitoring mechanism that should be established by law and have legally defined powers, or on abandoning this "pilot" project. If a new mechanism or body were to be established, it should likewise be subject to parliamentary scrutiny (including with regard to the selection of stakeholders, reporting on operations, etc.), in accordance with the valid practice in Croatia. This will become particularly relevant if an obligation to establish independent monitoring mechanisms for fundamental rights compliance at EU external borders is introduced under European law. In that case, Member States would have the choice of specifying the powers of existing independent national human rights institutions, NPMs and/or ombudsman institutions or establishing new mechanisms.

In 2022, we advocated for the establishment of an accountability and monitoring system that would enable effective investigations and the determination of potential infringements of fundamental rights by border police officers, including with regard to the execution of the judgment in the case of *M.H. and Others v. Croatia*. This concerns the case of the death of a six-year-old girl and the detention of her family during the process of their application for international protection. In its judgment, the ECtHR ruled that Croatia was responsible for numerous breaches of the rights of the Afghan refugee family, including the right to life, the right to liberty and security, prohibition of collective expulsion of aliens, the right to individual application and the prohibition of torture in relation to children. The judgment became final on 4 April 2022, and the Office of the Representative of the Republic of Croatia before the ECtHR initiated the process of developing an Action Plan for its implementation. The Expert Council for the Execution of Judgments and Decisions of the ECtHR (Expert Council) is involved in this process and its task is proposing specific measures to be implemented in order to prevent the recurrence of similar violations of the ECHR in similar future cases.

As one of the members of the Expert Council, we were provided with a draft Action Plan in order to present our opinion. Based on our work in the field of migration and asylum, as well as the findings and conclusions in this case and in similar cases, we highlighted the need for introducing revisions to certain proposed general measures, having in mind that the judgment has been designated as a "leading" judgment and that its execution is under "enhanced supervision" by the Committee of Ministers of the Council of Europe.

Regarding the requirements for an effective investigation, in the investigative procedure that we initiated in 2021, the MI failed to interview the complainant regarding the circumstance of unlawful conduct of the police, even though she had stayed in Croatia from 25 June 2021 until at least August 2022 together with her children. This relates to a case involving a woman who, according to her claims,

entered Croatia from Bosnia and Herzegovina with her two children on 22 occasions with the intention of seeking asylum, only to be returned to Bosnia and Herzegovina each time, sometimes from deep within Croatian territory. She stated that during the police procedure, they were subjected to intimidation and excessive force in order to compel them to comply with the orders of the police officers. In June 2021, they requested asylum in Croatia, and in July 2021, we requested the MI to investigate the allegations made in the complaint. We also emphasised that, unlike many other similar cases, the complainant and her children were available and located in Croatia. We considered it necessary to examine her regarding all the circumstances in order to conduct a proper investigation. However, an interview with her was not conducted for more than a year while she was in Croatia. When the MI intended to conduct the interview, they found that the complainant was unavailable. They assessed that it was not possible to confirm or refute her claims because their records did not contain any data on the conduct of police officers toward her and her children.

Furthermore, in our work throughout 2022, as in previous years, we emphasised our need to have access to all data regarding the treatment of irregular migrants, including the information in the information system of the MI. In this regard, we draw attention to the fact that the 2022 Rule of Law Report of the EC highlights the inability to access data on the treatment of irregular migrants, including direct access to the information system of the MI. The EC recommended that Croatia ensure a more systematic response to the recommendations of the Ombudswoman and her requests for information. In order to effectively assess the overall situation of identified violations of rights and freedoms in Croatia, the institution has a special role in, among other things, investigating allegations of unlawfulness and irregularities in the work of state bodies and conducting regular visits to places of deprivation of liberty to prevent torture and other cruel, inhuman or degrading treatment or punishment, including treatment of irregular migrants and applicants for international protection. To fulfil these tasks, we should have access to all information, data and documents of state bodies, as this would enable the monitoring of the situation and the detection of problems at the national level, which we have already reported in annual reports. Therefore, we reiterate our recommendation for access to data.

Recommendation 154 (reiterated)

For the Ministry of the Interior to enable the institution of the Ombudswoman to review all data regarding the treatment of irregular migrants, including the data contained in the information system of the MI

4.3. Prison system

4.3.1. Protection of rights of persons deprived of liberty in the prison system

In accordance with the powers stipulated by the Ombudsman Act and the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudswoman has a dual role in protecting the rights of persons deprived of liberty within the prison system.

In the first part, we present the actions taken based on complaints and the investigative procedures initiated on our own initiative, while in the second part, we describe the situation established during preventive visits as part of the NPM mandate. We provide an assessment of the treatment of persons deprived of liberty within the prison system through both mandates.

In 2022, we took action in 176 cases opened in that year or in the years before, in which we issued 17 warnings, recommendations and proposals, of which 79% were implemented or in the process of being implemented. In cases where it was necessary to directly establish facts and circumstances in order to assess the merits of the complaint, we conducted investigative procedures within the penal institutions. Although the majority of complaints covered multiple areas, the most common reasons for complaints were once again healthcare and accommodation conditions. In addition, persons deprived of liberty approached us regarding the conduct of officials, the use of benefits and requests for assistance regarding transfers.

Healthcare

"...They also say that I was examined, but I was never examined, not even once. When I arrived, the doctor called me and only asked me in the hallway whether I drink, whether I use drugs, whether I take any medication and how much I weigh. She did the same to all the other guys in the room. After I wrote all of that on slips of paper – I wrote about 20 slips in total – they didn't call me at all. Only once, after I wrote 'poor mother who gave birth to you' on one of the slips, did I finally see the doctor, after 20 slips, for the first time since I came to the prison infirmary. I told her that I had scabies and that my whole body was covered in blisters from the dirty sheets and blankets because they hadn't washed my sheets for 56 days, and they had only washed them once. She told me to take off my shirt to show her the blisters. The first thing she asked me was if I had been like this when I arrived, and I asked her if she had examined me when I arrived. Then she fell silent…"

There continues to be an increase in prisoners' complaints regarding insufficient access to healthcare. Most penal institutions do not have doctors on staff; instead, their services are provided through service contracts. Due to the shortage of doctors in public healthcare, they are increasingly engaged in their regular workplaces and are less available to work additional shifts in penal institutions, which leads to longer waiting times for prisoners' medical examinations.

However, in urgent situations, penal institutions use public healthcare institutions for medical examinations. In investigative procedures regarding complaints about not being referred for specialist examinations, we generally found that persons deprived of liberty are scheduled for appointments but cannot be informed of the specific time of appointment due to security reasons. The problem is that they often do not receive feedback on whether they have been scheduled for an appointment, which leads to dissatisfaction. Complaints about insufficient access to dental care, particularly in terms of dental treatment, are also frequent. In several penal institutions, they report that mainly tooth extractions are available.

"I refuse to go to a dentist because he only pulls out teeth."

We would like to highlight the complaints of two prisoners; they stated that the competent county police administration deregistered their place of residence, subsequently preventing them from using their compulsory health insurance. In order to ensure that they are not deprived of healthcare, the costs are borne by the penal institutions. In response to their complaints, we initiated investigative procedures, which were not yet concluded at the time of writing this report.

The provision of healthcare in the prison system is still not regulated in accordance with the Healthcare Act (HA). According to the position of the MH from March 2022, they are not competent for determining whether the Zagreb Prison Hospital meets the norms and standards for providing healthcare services, and they cannot confirm whether the hospital has the approval of the MH to provide healthcare services, or whether it is authorised to provide such services if it does not have such approval. They suggest seeking the opinion of the MJPA, as the Zagreb Prison Hospital is a structural unit of that Ministry. This position is unacceptable and shows a lack of understanding of the issues concerning healthcare for persons deprived of liberty.

According to information from the MJPA, a draft proposal for an ordinance on norms and standards regarding space, medical and technical equipment and healthcare staff has been prepared, and in accordance with Article 256, paragraph 1 of the HA, it should have been adopted within six months of the entry into force of the HA (which entered into force on 1 January 2019). The MJPA further states that until the new ordinance enters into force, compliance with norms and standards regarding space, equipment and personnel is determined based on the Ordinance on Minimum Conditions Regarding Premises, Staff and Medical and Technical Equipment of a Healthcare Institution Providing Healthcare to Persons Deprived of Liberty, which was adopted in 2014. This implementing regulation was adopted based on the previous HA, and the transitional and final provisions of the new HA failed to specify that it shall remain in effect until the new ordinance is adopted. An attempt was made to resolve this with the new 2021 Execution of Prison Sentence Act (EPSA). Article 23, paragraph 4 of the EPSA stipulates that the norms and standards of the Zagreb Prison Hospital shall be determined by the Minister of Justice by virtue of an ordinance, with the prior approval of the Minister of Health, in accordance with the act regulating healthcare. The final provisions state that the existing ordinance shall remain in force until the new one comes into effect.

Recommendation 155

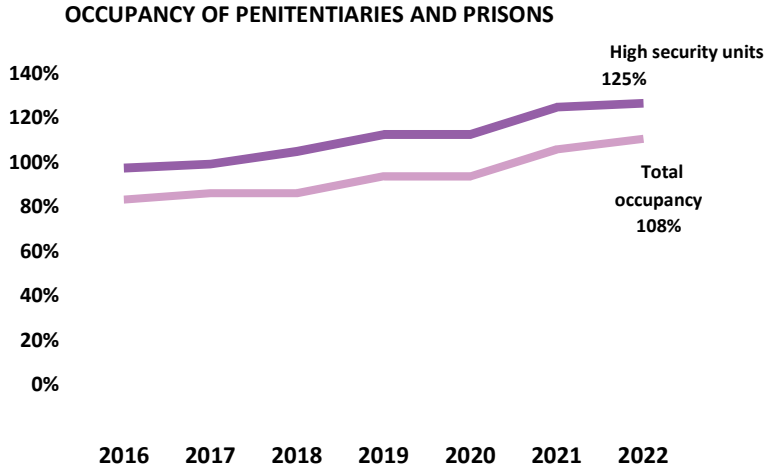
For the Ministry of Justice and Public Administration and the Ministry of Health to: ensure the prerequisites for providing healthcare services within the prison system in accordance with the Healthcare Act

Such actions lead to legal uncertainty. Despite repeated requests, we have not yet received for review the decision referred to in Article 76 of the HA, which establishes that the Zagreb Prison Hospital meets the stipulated conditions for providing healthcare services, and we thus conclude that it has not yet been issued, which is unacceptable. It is necessary for the MJPA to urgently submit a request to the MH for the issuance of this decision, and it is also necessary to regulate the status of healthcare departments in penal institutions (known as infirmaries), which provide primary healthcare services, as we have previously pointed out. This situation leads to a number of problems in practice, such as the lack of connection between prison doctors and the Central Health Information System of the Republic of Croatia (CHIS), which causes difficulties in ensuring adequate healthcare for persons deprived of liberty.

Accommodation conditions

"...So the room I am staying in is only 14 square meters in size, and I share it with four other prisoners. There is no toilet or drinking water in the room during certain parts of the day, and at night when we are locked in the rooms, we have to ring a bell and wait for the prison officer to unlock the door and let us use the shared bathroom. There is not enough natural or artificial light in the room... Just 10 meters away from the Penitentiary, there is a pen with lambs and sheep, and 50 meters further, there is a pig farm, so there is a constant unbearable stench in the Penitentiary, especially in the evenings."

The overcrowding of penal institutions, which results in the restriction or violation of numerous rights of persons deprived of liberty within the prison system, further increased during 2022. When comparing the data from the Report of the Government of the RC on the condition and work of penitentiaries, prisons, reformatories and centres for 2021 with the data on occupancy as at 31 December 2022, provided by the MJPA, an upward trend in overall occupancy is observed. The same trend has been identified when comparing data on the occupancy in high security units, which we collected for the purpose of preparing this and previous annual reports (2016–2021).



On 31 December 2022, the occupancy in high security units in all prisons, except for the Šibenik Prison, exceeded 100%. The highest occupancy was in the Osijek Prison, with an alarming rate of 205%, followed by the Karlovac Prison (170%) and the Zadar Prison (153%). In this context, the EC Recommendation from December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions should be mentioned, which states, among other things, that Member States should ensure a minimum of 6 m² in single-person cells and 4 m² in multi-person cells for each person deprived of liberty.[xxxiii]

Considering the presented data, it is not surprising that staying in inadequate conditions of overcrowded rooms is one of the most common causes for complaints. Acting based on a complaint from a prisoner subject to pre-trial detention, we found that he was staying in the Osijek Prison in a room with a surface area of 19.98 m² (17.90 m² without sanitary facilities) with seven other persons, leaving him with only 2.23 m² of personal space. In that regard, it is important to note that the ECtHR, particularly in the case of *Muršić v. Croatia*, assumed the position that when a person deprived of liberty has less than 3 m² of personal space at their disposal, there is a strong presumption that there has been a violation of Article 3 of ECHR. Since the ECtHR case-law states that lack of space can be compensated by sufficient freedom of movement and appropriate activities outside the cell, we recommended that all penal institutions be informed of the need to implement measures and activities to compensate for the lack of space, such as extended outdoor time, provision of suitable conditions for physical exercise, organisation of various leisure activities, and so on, which has been implemented.

We positively note the opening of a new unit in the Lipovica-Popovača Penitentiary in December 2022, which increased the capacity of closed conditions by 140 beds, as well as the information that the MJPA is considering funding the construction of a new penal institution in Gospić, which would increase the capacity for high-risk prisoners. However, increasing accommodation capacity is not the only solution to the problem of overcrowding; it is necessary to implement a series of different measures and activities.

The announced introduction of electronic monitoring for conditional release and the adoption of the Ordinance on Pre-trial Detention at Home with the Application of Electronic Monitoring, which is currently being drafted, is certainly a step in the right direction. For years, we have emphasised the need for establishing a normative framework for the serving of prison sentences lasting up to one year at home, in accordance with Article 44, paragraph 4 of the CC. According to the information provided by the MJPA in January 2022, the prerequisites for implementing the serving of prison sentences at home will be considered as part of the tasks of the next Working Group for amendments to criminal legislation. Despite our requests, as at the date of writing of this Report, we have not received any information as to whether the Working Group has been formed.

Long-term solution to the problem of overcrowding, which in certain situations leads to the infringement of Articles 23 and 25 of the Constitution, as well as Article 3 of the ECHR, can only be achieved through comprehensive measures that encompass both crime prevention and better prisoner reintegration into society. The view presented by the CPT in its 2021 Report can be helpful in considering the necessary activities. According to that view, overcrowding is primarily the result of a strict criminal policy, more frequent and longer pre-trial detention, longer prison sentences and as yet limited use of alternative criminal sanctions.[xxxiv]

"...I sleep on a mattress that may be as old as I am, meaning more than 40 years old. It is so worn out that it feels like I am sleeping on a board, and it is also infested with some kind of creatures, possibly mites... The toilet is so cramped that when we need to use it for a bowel movement, the door has to be left open so that we can sit on the toilet properly, and we have to go while everyone is watching, which is embarrassing and uncomfortable..."

The lack of harmonisation of the present conditions with the standards of appropriate accommodation continues to be one of the common causes for complaints. The complaint from a prisoner regarding the accommodation conditions in the Diagnostic Centre in Zagreb, which is located within the premises of the Zagreb Prison, is a consequence and an example of such inappropriate conditions. Among other things, one prisoner stated that the toilet is separated from the rest of the room only by a low wall, which does not allow for privacy when using it, so they had to hang blankets to shield that part from the view of other prisoners. He stated that his bed was very close to the toilet, as was the table where they ate. They were allowed to shower only once a week, so other days, they washed themselves while sitting on the toilet. Despite their requests, the prison officers did not allow them to shower more frequently. He emphasised that there were 17 of them in a room that was too small (43.71 m^2), and the situation was further aggravated by the fact that some people smoked in the room. The hygiene supplies that they received once a month were insufficient. The sheets, which were supposed to be washed every fifteen days, had only been washed once during his stay (56 days) in the Centre. The rooms were not air-conditioned, and they were not provided with a fan. One prisoner bought a fan at his own expense. He also complained that they were served lunch and dinner at the same time, and due to the high temperature in the room, the dinner would become inedible after a short time.

We have continuously warned of the inappropriate accommodation conditions in the Zagreb Prison and other penal institutions, which can be degrading, but unfortunately, no significant activities have been undertaken yet to improve the situation. As in previous reports, we remind of the Decision of the Constitutional Court of the Republic of Croatia U-III-4182/2008, by means of which the Croatian Government was ordered to adjust the capacities of the Zagreb Prison to the needs of accommodation of persons deprived of liberty in accordance with the CoE standards and the ECtHR practice, in a manner that will not be degrading for prisoners subject to pre-trial detention and other prisoners; this has not yet been implemented.

Acting on the complaints received from individual prisoners about accommodation conditions, we noticed that in some penal institutions, prisoners allocated to work in, for example, animal husbandry or agriculture, do not receive an adequate amount of hygiene products that would enable them to maintain proper personal hygiene after work. Instead, they are told of the possibility of purchasing additional quantities of hygiene products at the prison canteen. According to Article 83, paragraph 3 of the EPSA, prisoners are required to maintain personal hygiene, and the penal institution provides water and hygiene supplies. By examining the List of basic hygiene products, which was part of the then applicable Ordinance on Standards of Accommodation and Nutrition for Prisoners, it is concluded that prisoners are provided with one 125 g hand soap per month. Since implementing regulations based on the EPSA were in the process of being drafted, we recommended that prisoners engaged in work activities be provided with additional quantities of hygiene products sufficient for maintaining proper body hygiene, taking into account the specific nature of tasks to which they are assigned. This recommendation was adopted.

Correctional treatment of prisoners

The shortage of correctional treatment officers is present in most penal institutions. For example, in the Požega Prison, which houses 120 persons deprived of liberty, there are only two correctional treatment officers. As there are stipulated time limits for completion of administrative tasks, this mostly affects their presence in the prison wards. It is therefore not surprising that some persons deprived of liberty stated in anonymous surveys that there is not a sufficient number of correctional treatment officers and that they are therefore not sufficiently available to them.

The inconsistent practices of penal institutions are the cause of continuous dissatisfaction among prisoners. Several penal institutions, such as the Glina Penitentiary, insist on the definition of a consensual union referred to in the Family Act when approving the privilege of spending time with a spouse or cohabiting partner or civil or informal civil partner in a separate room without supervision. We consider this unacceptable. Although this specific case does not involve a legal right, but rather a privilege, different practices among penal institutions can contribute to the perception that the approval of privileges is characterised by non-transparent procedures with no clearly defined rules. It is important to keep in mind the significant role of deeper emotional connections in the process of rehabilitation and social reintegration of prisoners. At our initiative, the MJPA issued an opinion in 2012 regarding the determination of data on the status of persons who are in an emotional relationship with a prisoner, which cannot be defined as a consensual union in accordance with Article 11 of the Family Act, or as a common-law union of an unmarried woman and an unmarried man that lasts for at least three years or a shorter period if they have a child together or if the relationship is continued by marriage. According to that opinion, it is necessary to allow the registration of such persons in the visitation record as family members, which enables the prisoner to use privileges in accordance with the Ordinance on Correctional Treatment of Prisoners. Unfortunately, this opinion is not binding on the wardens of penal institutions.

Furthermore, in the complaint submitted by a prisoner regarding the non-approval of conjugal visits with his spouse, who is also serving a prison sentence, dissatisfaction was expressed because they were not granted this privilege after getting married in the penal institution. Additionally, even during approved supervised visits, physical contact was not allowed. The prisoner states that he was told that conjugal visits would be approved if his spouse was not incarcerated. The prisoner spent only a short time serving his prison sentence in the same town where his spouse was serving her sentence. After a few months, he was transferred to another penal institution, located around a hundred kilometres away, which significantly hinders their direct communication. The investigative procedure is still ongoing.

"...Given that after serving my sentence, I will not be able to work in my field of expertise due to being sentenced, I would like to receive an education within the prison system for one of the occupations which are in high demand, such as construction worker (tiler, bricklayer). The state prison is denying me my right to receive an education, even though there is a legal provision stipulating the right to education for prisoners who serve sentences longer than one year... The prison administration keeps us in a mental straitjacket, without adequate rehabilitation, social reintegration and training programmes for prisoners to prepare for life after being released. We are locked in our rooms all day, without any activities, and we are left to ourselves..."

We also received complaints from prisoners regarding insufficient and inadequate preparation for release, which is a problem that was often raised during visits to penal institutions. According to the EPSA and the Ordinance on Correctional Treatment of Prisoners, an integral part of an individual sentence execution programme is a plan of preparation for release and organisation of post-release support, which should be initiated soon after arrival at the penitentiary or prison. Preparation should include a series of measures and activities that persons deprived of liberty may not perceive as a part of it (such as regulating permanent or temporary residence, improving family relationships, providing financial support for essential needs after release, and so on). Completing appropriate education is of great importance for many prisoners, as it helps them find suitable employment after serving their prison sentence. The EPSA stipulates that penal institutions are required to organise primary education for adult prisoners who did not complete their primary education, in accordance with their possibilities. It is also stipulated that, to the extent possible, penal institutions should organise secondary education for adults, reskilling, professional training and upskilling of prisoners. However, considering the importance of education for successful social reintegration, all prisoners should be provided with this opportunity, rather than their education being limited based on the capabilities of the penal institution. In many penal institutions, there is a lack of activities aimed at developing skills that would be beneficial to prisoners following release and facilitate their reintegration into society. However, objective circumstances often hinder the implementation of educational programmes, although some penal institutions have established excellent cooperation with adult education institutions. Although non-governmental organisations also play a significant role in implementing educational programmes, unfortunately, the 2021 Report on the condition and work of penitentiaries, prisons, reformatories and centres does not provide the total number of prisoners involved in these projects.

According to Article 10, paragraph 3 of the International Covenant on Civil and Political Rights, the essential aim of treatment of prisoners should be their social rehabilitation. Reintegration of prisoners social largely depends on their ability to earn a living. For some prisoners, the time spent serving their sentence may represent their first opportunity to develop professional skills that enable them to find employment. Additionally, the Resolution 1990/20 on Prison Education of the United Nations Economic and Social Council emphasises the need to provide access to education for all prisoners. The Nelson Mandela Rules (Rule 104) highlight the significant role that education plays in preventing recidivism and stress the importance of its accessibility to all prisoners, including compulsory access to education for illiterate and younger prisoners. According to MJPA data for 2021, 12% of prisoners had a low level of education (less than primary education or no formal education), and some lacked basic reading and writing skills.

Therefore, the number of prisoners enrolled in various educational programmes is concerning. According to the data from the 2021 Report of the Government of the Republic of Croatia on the condition and work of penitentiaries, prisons and reformatories, there is a continuous decrease in the number of prisoners enrolled in educational programmes. Prisoners often state that they are interested in attending relevant vocational programmes for adult education, but that they are organised in other penal institutions and are not accessible to them. It is necessary to include as many interested prisoners as possible in adult education programmes, and if a penal institution is unable to provide such programmes, prisoners should be allowed to transfer to penal institutions that are able to organise them. It should be noted that transfers for the purpose of education are extremely rarely approved.

Additionally, it is concerning that on average, only 29% of persons deprived of liberty are engaged in monthly work activities. Since there are more prisoners interested in work engagement within the prison system than there are available job positions, it is necessary to increase the number of appropriate job opportunities, especially for prisoners serving their sentence in closed conditions.

Treatment by officials

In 2022, prisoners, especially the Roma, complained to us about unprofessional or unlawful conduct by officials, alleging that prison officers insult and demean them. Although we are sometimes unable to unequivocally verify the validity of these complaints, since according to the claims of prisoners, such incidents frequently occur without the presence of other persons that may confirm that such behaviour occurred, we consistently emphasise the necessity of professional conduct and respect for the dignity of all persons deprived of liberty. Such behaviour not only contradicts Articles 11 and 12 of the EPSA, which prohibit unlawful conduct and discrimination, but it may also constitute an infringement of Articles 3 and 14 of the ECHR, as well as of Articles 14, 23 and 25 of the Constitution of the Republic of Croatia.

Moreover, some prisoners contacted us out of fear for their own safety, stating that they had received threats from other prisoners. Although certain measures are taken within the prison system to prevent inter-prisoner violence, such measures are predominantly reactive rather than preventive, as required by the obligations outlined in Article 3 of the ECHR. It is worth noting that the CPT, in its Report following the visit to Croatia in 2017, recommended the establishment of an effective national strategy for addressing violence among prisoners, which has not yet been implemented. In that regard, it should be emphasised that the failure to take preventive measures to protect the physical and mental integrity as well as the well-being of persons deprived of liberty may constitute a violation of the guarantees contained in Articles 23 and 25 of the Constitution.

Several prisoners also complained about the conduct of correctional treatment officers, who, for the purpose of procedures related to recognition of social welfare benefits, provided opinions stating that all basic life necessities of prisoners were met without considering individual circumstances. This caused dissatisfaction and a sense of injustice among those prisoners, since the lack of sufficient job opportunities generally prevented them from being engaged in work activities, they rarely received financial support from family members or friends and, for example, they had to cover co-payments for certain medications, top up their telephone card to be able to call their family members and so on. In such situations, it is necessary to adopt an individualised approach and ensure the conditions are in place for the received benefits to be used for their intended purposes.

Recommendation 156

For the Ministry of Justice and Public Administration to: enhance professional capacities within penal institutions, particularly in the areas of security, correctional treatment and healthcare, in order to increase the level of human rights protection for persons deprived of liberty

The actions of officials are greatly influenced by their insufficient number. We continuously emphasise the need to fill as many of the established positions as possible, as the current staffing level of 72%[xxxv] needs to be considered in light of overcrowding, particularly in closed conditions.

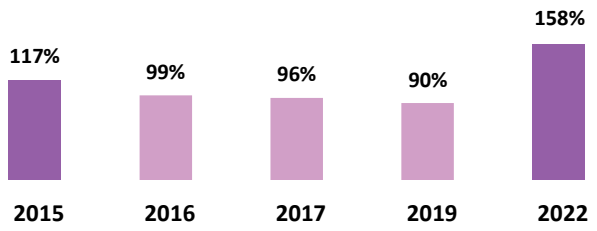
4.3.2. NPM activities in the prison system

Acting in accordance with the powers granted by the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ANPM), during 2022, we made unannounced visits to the Glina and Požega Penitentiaries, as well as the Zagreb Prison. The visits focused on ensuring the respect for the rights of persons deprived of liberty, particularly regarding accommodation conditions, maintenance of order and security, as well as activities related to preparation for discharge or release. Additionally, during the visit to the Zagreb Prison, special attention was given to the organisation of the distribution of opioid substitution therapy and the conduct of officials with the aim of preventing its abuse.

Accommodation conditions

Numerous persons deprived of liberty are held in conditions that are not in compliance with the legal and international standards for appropriate accommodation. This is often due to overcrowding and/or the age and inadequacy of the buildings. For example, female prisoners serving their sentences in closed conditions in the Požega Penitentiary were accommodated in a dilapidated building that is more than 100 years old. In the case of the Zagreb Prison, based on the data collected during our last five visits, the level of overcrowding was the highest since 2015.

OCCUPANCY OF THE ZAGREB PRISON
(data collected during previous visits)



Photograph 5

Numerous rooms in the Zagreb Prison are untidy and neglected, with observed damage to furniture, walls and floors. In most cases, there is an insufficient number of lockers, resulting in persons deprived of liberty keeping their belongings and footwear in bags under or next to their beds. Jackets and towels are hung on the walls of sanitary facilities and beds.

Many mattresses and pillows are old, and visible damage and stains are present. In most rooms, the beds are not spaced 80 cm apart, which is contrary to Article 5, paragraph 2 of the Ordinance on Standards of Accommodation and Nutrition for Prisoners.

Photograph 6

During our previous visits to the Zagreb Prison, we raised concerns about the inadequate accommodation of persons deprived of liberty in former workshops which have been converted into dormitories. Although in 2019, we positively evaluated the fact that these rooms were no longer used for accommodation of persons deprived of liberty but only for work and occupational activities, during this visit, we found that these rooms were being used for accommodation once again.

Fourteen persons were accommodated in a room with a surface area of 43.7 m^2 (41.8 m^2 without sanitary facilities). There were two tables in the room, and due to limited space, some persons had to eat in bed. Additionally, the sanitary facilities were only partially separated from the rest of the room. In addition to such conditions being degrading, large-capacity dormitories inevitably lead to a lack of privacy and a high risk of intimidation and violence, as repeatedly pointed out by the CPT.

During the visit to the Požega Penitentiary, we spoke with a prisoner who in September 2021 fell from a scaffolding while working and broke his femur. Based on the doctor's recommendation, he was not allowed to use stairs, so he was thus not able to go for a walk for five and a half months, since the closed ward is located on the first floor and the walking area is accessed via stairs. Given that such accommodation conditions are inhumane, we recommended that in any similar situation in the future the person deprived of liberty be accommodated in an appropriate ground-floor room that provides access to outdoor space.

The building of the Glina Penitentiary, which houses the largest number of prisoners, was constructed in 2011, and the conditions are thus better compared to many other penal institutions. However, due to existing limitations caused by the building's design, the room where the disciplinary measure of solitary confinement is carried out lacks sufficient daylight, which is not in line with Article 155, paragraph 4 of the EPSA.

After the visit to the Požega Penitentiary in 2018, we warned that the accommodation conditions, especially in the closed ward for female prisoners, were largely not in compliance with the legal and international standards for appropriate accommodation and that they could be degrading. Furthermore, the already dilapidated building suffered additional damage as a result of severe weather in June 2021. During the visit, we received positive information that the female prisoners will temporarily be relocated to a new separate facility, after which energy renovation will commence, including adaptation and rehabilitation of the building as well as improvement of accommodation conditions.

Maintaining order and security

The EPSA stipulates a series of measures and procedures aimed at maintaining order and security, some of which further restrict the rights and freedoms of prisoners (such as disciplinary measures, special measures to maintain order and security, use of force, searches and body searches, etc.). During our visits, we considered these actions and gathered data on the implementation of specific measures in order to determine whether the restrictions are in accordance with the Act, proportionate to the

reasons for their application and necessary to achieve the purposes stipulated by the Act.

It is concerning that we have repeatedly warned of many actions that are not in line with international and legal standards, which we observed in 2022 as well as in previous years.

For example, during a visit to the Glina Penitentiary, some prisoners pointed out the issue of the use of restraints, stating that they are restrained while being escorted elsewhere, regardless of the fact that they are accommodated in the semi-open ward (medium security unit) and/or that they are using privileges outside the prison. One of them stated that he refuses to go to medical examinations in external healthcare facilities because he is ashamed of the restraints. Such practice is explained based on implementation of an order issued by the COPS in September 2021, which stated that the decision to use restraints during the escort of prisoners should, among other things, be based on the length of the imposed sentence and the conditions in which the prisoner serves their sentence. However, such actions are contrary to international standards, as the necessity and proportionality of restraints on persons.

Deprived of liberty must be taken into account, considering the specific circumstances of each individual case.

Therefore, considering that such actions could be degrading and even inhumane, we warned the COPS that the relevant order needed to be amended or repealed, which was done.

Photograph 7

We have likewise repeatedly warned about the inappropriate conditions in the premises designated for the disciplinary measure of solitary confinement imposed on female prisoners in the Požega Penitentiary. In 2013, we recommended that the existing four rooms be converted into two, in accordance with international standards. We also wrote about the non-compliance of the conditions with legal and international standards in the 2018 Report on the visit to the Penitentiary. An additional problem was observed in situations where two prisoners were simultaneously subjected to the disciplinary measure of solitary confinement or a special measure of isolation. In such situations, one prisoner stays in the isolation room, while the other stays in the solitary confinement room, even though the conditions in the solitary confinement room are significantly worse. Such unequal execution of certain disciplinary and special measures, or the execution of the same measure in different conditions, where some are significantly worse than others, can cause a sense of injustice among the prisoners, which is not good. Therefore, we believe that after the rehabilitation and renovation of the building, the conditions for implementation of special and disciplinary measures will be equal.

As part of the Working Group for the development of the EPSA, as well as of e-consultations, we advocated for a more detailed regulation of special measures for maintaining order and security in an ordinance, but the proposal was not adopted. The absence of clear rules, particularly regarding

measures that further restrict prisoner rights, is not in line with the principle of the rule of law. For example, during a visit to the Glina Penitentiary, we found that the special measure for maintaining order and security – enhanced supervision – was imposed on 54 prisoners, usually due to "non-compliant behaviour," and to a lesser extent due to the risk of escape and the possibility of abuse by other prisoners. At the same time, the measure of enhanced supervision was not applied to 97 prisoners assessed as high-risk for suicide attempts, which is erroneous and may lead to tragic consequences. During our visits, we noticed that in some penal institution, the special measure of enhanced supervision was not applied to prisoners who were assessed as high-risk for suicide; instead, the so-called enhanced precautionary measures are implemented, which are not legally stipulated and it is not clear what they entail. Similarly, we determined in some penal institutions that no measure of enhanced supervision was ordered in any case, but some prisoners were being closely monitored, even though close monitoring is not stipulated by law. Acting on our recommendation, the COPS sent an instruction to penal institutions on how to implement enhanced supervision. However, our warning that the special measure of enhanced supervision should be applied to all prisoners assessed as high-risk for suicide was not accepted.

Although this specific example concerns a special measure that minimally impairs human rights (enhanced supervision), it clearly indicates the lack of clear rules for the application and imposition of special measures, which we have been pointing out for years. Therefore, taking into account the fact that the provisions of the EPSA relating to special measures for maintaining order and security do not meet the requirements of predictability and determination, we recommend that the MJPA consider amending Chapter XIX of the EPSA.

Recommendation 157

For the Ministry of Justice and Public Administration to: draft a proposal of amendments to the Execution of Prison Sentence Act in the part related to special measures for maintaining order and security

Recommendation 158

For the Ministry of Justice and Public Administration to: draft a proposal of amendments to the Criminal Procedure Act in order to harmonise disciplinary offences and disciplinary measures stipulated by this Act with those stipulated by the Execution of Prison Sentence Act

During the visit to the Zagreb Prison, the conduct of prison officers in preventing abuse of opioid substitution therapy was considered. According to the data obtained from 1 January to 20 December 2022, 33 disciplinary proceedings were initiated against persons deprived of liberty suspected of committing the disciplinary offence of possessing or consuming alcohol or any narcotic or psychoactive substance, including medication without specific approval. However, a major problem in preventing the abuse of opioid substitution and other therapy is the outdatedness and inadequacy of the provisions of the Criminal Procedure Act, particularly Article 140, which stipulates disciplinary offences.

The relevant Article considers *bringing* narcotic or alcoholic substances into prison or *preparing* them in prison a disciplinary offence, but not the possession or consumption of alcohol or any narcotic or psychotropic substance, including medication without specific approval. Therefore, there is no possibility of sanctioning prisoners subject to pre-trial detention who are found to have such substances in their possession. We have repeatedly pointed out the need to amend Article 140 of the CPA (for example, in the 2017 Report and in a letter sent to the Minister of Justice in September 2019), but it has not yet been amended, which could negatively affect the order and security in prisons. Therefore, we recommend that the MJPA harmonise Article 140 of the CPA with the provisions of the EPSA which stipulate disciplinary offences and disciplinary measures.

Opioid substitution therapy

Taking into account the fact that, according to the data available to us, of the total of six people who died from overdoses in the prison system between 1 January 2021 and 30 April 2022, five died in the Zagreb Prison (including the Diagnostic Centre in Zagreb), special attention was paid to the organisation of distribution of opioid substitution therapy to persons deprived of liberty and to the conduct of officials aimed at preventing abuse of opioid substitution and other therapy in that penal institution.

The unregulated issue of organising the work of infirmaries in penal institutions concerning the provision of primary healthcare to prisoners necessarily leads to a series of problems in practice. The Zagreb Prison, which houses the Diagnostic Centre in Zagreb, where prisoners from all over Croatia come for diagnostic evaluation, generally buys opioid substitution therapy for persons deprived of liberty because officials are unable to visit general practitioners' offices to be issued paper prescriptions for medication containing narcotic and psychoactive substances.

This represents a significant additional cost for the prison system, as they are paying for medications that can be obtained through compulsory health insurance.

In addition to organisational deficiencies, the situation is further complicated by a shortage of healthcare staff, which can lead to omissions in record-keeping. There are no records of entry of opioid substitution therapy for persons deprived of liberty transferred to the Prison from another penal institution, which must be kept. Furthermore, there is no record of therapy that remains when a person decreases the dosage on their own initiative. There is also no record of the amount of therapy used, so it is not clear which person deprived of liberty received what dosage of therapy. Such omissions are unacceptable. It is necessary to ensure a sufficient number of healthcare workers and to keep complete records, including monitoring the so-called "path of therapy" from the pharmacy to the patient, which would, in accordance with the country's obligations under Article 2 of the ECHR, significantly decrease the possibility of overdoses, including those with fatal consequences.

Recommendation 159

For the Ministry of Justice and Public Administration to: urgently ensure a sufficient number of healthcare workers in the Zagreb Prison

Recommendation 160

For the Ministry of Justice and Public Administration to: keep records in all penal institutions that enable the monitoring of the so-called "path of therapy" from the pharmacy to the patient

Activities concerning improvement of the legal framework

Pursuant to Article 19 of the Optional Protocol to the UN Convention against Torture, in 2022 we participated in public consultations on several proposed ordinances: the Ordinance on the Work and Management of the Prisoners' Funds; the Ordinance on Underwear, Clothing, Footwear and Bedding for Prisoners; the Ordinance on Standards of Accommodation and Nutrition for Prisoners; the Ordinance on Standards and Procedures for Determining, as well as Appointment of Members and the Work of the Commission for Determining the Special Health Condition of Prison Officers; and the Ordinance on Registers, Personal Information, Logbooks, Personal Files and Records Kept within the Prison System.

Since the work of persons deprived of liberty is an important part of their individual programme for serving their sentence, and the organisation and manner of work should resemble the organisation and manner of work outside of the penal institution as much as possible, one of our proposals during the e-consultation on the Proposal for the Ordinance on the Work and Management of the Prisoners' Funds was to delete the provision based on which the prisoner would lose their right to use annual leave if the warden adopts a decision terminating their work. If a prisoner has obtained the right to annual leave, the warden's decision to terminate their work cannot derogate the acquired right. However, our proposal was not accepted, and the provided explanation stated that annual leave is a benefit stipulated by the EPSA, and one of the disciplinary measures is the denial of benefits, which means that the disciplinary measure of loss of the opportunity to use annual leave may be imposed on the prisoner. However, annual leave is a right, and only to the ability to use part or all of the annual leave in the semi-open or open wards of the penal institution is stipulated as a benefit (stipulated in more detail in Article 27, item 10 of the Ordinance on Correctional Treatment of Prisoners).

Prisoners pointed out situations that they found humiliating: receiving clothes that are too small or too big, so they had to use ropes to tie their pants, as well as ill-fitting footwear. Some prisoners refused to accept the footwear because it was foul-smelling, and they were afraid that they would get a fungal infection. We believe that upon arriving at the penal institution, it is necessary for the prisoner to receive a blanket that no one has used since it was last washed. In general, prisoners receive used blankets that are already in the room. Instead of duvet covers, prisoners usually receive two sheets, and some complain that they have developed skin diseases from dirty blankets. During the e-consultation on the Proposal for the Ordinance on Underwear, Clothing, Footwear and Bedding for Prisoners, one of our proposals was to include a provision that all equipment provided to prisoners must be clean and in the appropriate size. Our proposal was accepted.

During the e-consultation on the Draft Ordinance on Standards of Accommodation and Nutrition for Prisoners, we proposed, among other things, the stipulation that working prisoners be allowed to shower every day. For example, for prisoners working in animal husbandry, showering every day is necessary for proper hygiene maintenance; simply allowing prisoners to clean themselves over a sink is not sufficient. Additionally, the EPSA requires prisoners to maintain personal hygiene, which is certainly not possible in these situations. Some penal institutions allow working prisoners to shower every day, while others allow them to shower twice a week, which is the minimum standard ensured for all prisoners regardless of their work status. Our proposal was accepted.

Cooperation with the MJPA (Directorate for the Prison System and Probation)

In 2022, we held lectures at the 40th and 41st basic course for prison officers. In addition to the area of fundamental human rights, in the lectures, we provided an overview of judgments of the Constitutional Court and the ECtHR in cases against the Republic of Croatia pertaining to the prohibition of torture. Furthermore, through specific cases from the practice of the institution of the Ombudswoman, we clarified our role in protecting the rights of persons deprived of liberty. A focus group was also conducted with the participants in order to gain insight into their perception of the role of a prison officer in a penal institution and their views on the human rights of persons deprived of liberty.

4.4. Persons with mental disorders with restricted freedom of movement

The Ombudswoman, in accordance with the competences stipulated by the Ombudsman Act and the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has a dual role in protecting the rights of persons with mental disorders whose freedom of movement is restricted.

In the first part, we present working on complaints and the examination procedures initiated on our own initiative, while in the second part, we describe the situation established during preventive visits as part of the NPM mandate. We provide an assessment of the treatment of persons with mental disorders whose freedom of movement is restricted based on both mandates.

Protection of people with mental disorders as a vulnerable social group

The complaints received mainly concerned the denial of the right to be informed about own health condition, confirmed diagnosis and medical assessments of the results and outcomes of specific diagnostic or therapeutic procedures, unjustified or improper use of coercive measures, inability to exercise certain rights stipulated by the Act on Protection of Persons with Mental Disorders (APPMD), as well as forced bringing, detention and hospitalization in psychiatric institutions.

According to the data of the Commission for Protection of Persons with Mental Disorders, from 1 January to 31 June 2022, a total of 2,321 coercive measures were recorded in all psychiatric institutions, while from 1 July to 31 December 2022, there were 571 recorded coercive measures, with the note that not all institutions provided data for the latter period. In that regard, there is a noticeable disparity in the use of coercive measures in different institutions. For example, in 2022, in the "Dr Josip Benčević" General Hospital Slavonski Brod (PDGH Slavonski Brod), those measures were used 40 times, while in the Psychiatry Clinic of the University Hospital Centre Osijek (PC UHC Osijek), they were used 77 times. On the other hand, the medical staff at the Psychiatry Clinic of the University Hospital Centre Rijeka (PC UHC Rijeka) applied coercive measures toward patients a total of 570 times in the first six months. According to the provided data, PDGH Slavonski Brod is one of the general hospitals with a lower number of coercive measures used, while concerning psychiatry clinics, the highest number was recorded in the Psychiatry Clinic of the University Hospital Centre Split (PC UHC Split), where as many as 893 instances of coercive measures were documented in just the first reporting period. This disproportion raises doubts about the justification of the use of coercive measures, which should be used in particularly urgent cases of serious and direct endangerment of one's own or others' lives, health or safety, where this is the only means to prevent a patient from endangering their own or others' lives, health or safety through their actions.

We emphasise that according to the CPT standards, coercive measures should always be used in accordance with the principles of legality, necessity, proportionality and responsibility. They should never be used as punishment, to facilitate the work of staff, due to shortage of staff or as a substitute for proper care or treatment.

"After a brief conversation with a psychiatrist, who asked me a few questions, the police officers told him that I had constantly been talking about wanting to commit suicide, which was completely false. The psychiatrist then called in the nurses, who instructed me to remove my jacket, and after that, they tied me to the bed and fixed my arms and legs. At no point did I resist or refuse to cooperate."

Based on the complaint, we initiated an examination procedure regarding the use of coercive measures in the PC UHC Rijeka, taking into account the patient's complaint that he was restrained without justification, meaning that he did not resist or seriously endanger their own or others' lives, health or security, which is why coercive measures should be applied. By reviewing the documentation regarding the use of a coercive measure, we established that there is no basis for the extension of the coercive measure, that nursing and medical documentation is inconsistent, that there is no record of physical exercise of the patient while restrained and no mention of preventive measures taken to reduce the risk. As a result, we warned that the use of coercive measures without

Recommendation 161

For the Ministry of Health to: ensure that coercive measures are used in psychiatric institutions only when it is necessary to avert imminent danger arising from the patient's behaviour, which seriously and directly threatens their own or others' life or health

Real reasons can lead to patient abuse. In addition to the allegations of unjustified use of coercive measures, the complainant stated that he did not sign the consent for voluntary hospitalization, although by reviewing the documentation, we found that it had been signed. From this, we concluded that the patient did not know what he has signed. Therefore, in this case, the validity of informed consent is questionable, as it requires that the person can understand the information provided by the doctor and that he knows what he is signing. Otherwise, if there is no valid consent, such detention can lead to unlawful deprivation of liberty. It is particularly concerning that on the same day when the complainant signed the consent, he was also restrained, and the medical documentation lists numerous reasons for the need for fixation, that could indicate that the patient was not capable of giving consent. In such situations when, according to the doctor's assessment, a person needs to be detained in a psychiatric facility but is unable to give valid consent, he/she can be involuntarily detained for 48 hours following admission, after which he/she should be informed again about voluntary hospitalisation or the need for forced accommodation, regarding which a decision is adopted by the court.

We initiated an examination procedure on our own initiative regarding the possible involuntary hospitalisation of an individual in UHC Split due to poor physical condition and unsatisfactory living conditions. In the response from the PC UHC Split, it was emphasised that the patient was admitted to the emergency department, where he signed a consent for hospitalisation and was treated at PC for one day and transferred to another hospital department following a consultant examination and consultations.

In the supplement to the report, it is noted that the patient was admitted with a clinical presentation of acute and transient psychotic disorder. Coercive measures/restraints were applied upon admission to the PC in order to prevent self-harm. In regard to the provided reports, we pointed out Article 61 of the APPMD, which states that coercive measures for persons with severe mental disorders may only be applied as an exception, if they are the only means to avert imminent danger arising from their behaviour, which seriously and directly endangers their own or others' life or health. Coercive measures may only be applied to the extent and in the manner necessary to avert the danger. Before applying coercive measures, it is important to use de-escalation techniques stipulated in the Ordinance on the Types and Methods of Applying Coercive Measures to Persons with Severe Mental Disorders. According to the Guidelines of the Croatian Medical Association – Croatian Society for Clinical Psychiatry, they are an important method of communication used to calm agitated patients, help them regain self-control and establish cooperation in treatment.

We asked the question of specifying acute (short-term) and transient psychotic disorders and the stipulated clinical indications referred to in Article 8 of the Ordinance on Coercive Measures, which serve as the basis for the application of restraint measures. We warned about the need for consistent implementation of all regulations as well as national and international standards in the application of coercive measures. We recommended further education of medical staff in order to improve and enhance their handling of aggressive patient behaviour, as well as training on communication skills and de-escalation techniques. ECtHR likewise pointed out the unjustified and non-selective use of coercive measures in its judgment in the case of *M.S. v. Croatia (no. 2)* (2015), where violations of Articles 3 and

5 of the ECHR were established; it emphasised that such measures should only be used if calming the patient and preventing harm cannot be achieved through other methods. Among other things, this judgment highlighted the lack of alternative methods for calming the patient and the inability to prove the absolute necessity of the coercive measures. The prolonged application of these measures affected human dignity and resulted in degrading treatment.

"The practice of illegal detention in psychiatric institutions is a barbaric practice that still exists in Croatia. Here we have a case where psychiatrists are performing the duties of the judiciary, and the police are acting as psychiatrists, self- initiative assessments of who should be placed in closed wards and giving statements instead of that person"

We acted upon the complaint submitted by a patient, who stated that he was forcibly hospitalised at the Psychiatric Hospital Ugljan (PH Ugljan) without any medical reasons, but rather due to a conflict with his family. According to the statement of PH Ugljan, the patient was brought in accompanied by police officers and provided written consent for treatment after being informed about the reasons and objectives of the hospitalization. However, during the examination procedure, we were unable to determine that he was sufficiently informed about the reason for hospitalisation, nor that he knew that he could withdraw consent for voluntary hospitalization. Namely, in accordance with Article 25, paragraph 2 of the APPMD, a person can withdraw their consent at any time because voluntary consent applies not only at the moment of admission but is presumed throughout the entire stay. Since the patient signed the consent for hospitalisation upon admission, he/she should have also been informed that the voluntary nature of consent applies to the entire period of hospital treatment, because otherwise it may result in unlawful stay in a psychiatric institution or involuntary detention of a voluntary patient, which would constitute a violation of Article 5 of the ECHR.

In 2022, the ECtHR issued a judgment in the case of *Miklić v. Croatia*, finding a violation of Article 5 of the ECHR. In relation to that specific case, we conducted an examination procedure in 2018, questioning the validity of the legal basis for Mr. Miklić's involuntary hospitalisation. We emphasised the need for the application of Articles 37–41 of the APPMD, which should have included the obligation of the court to, upon request of the involuntarily detained person or their lawyer, obtain an expert opinion from a psychiatrist who is not employed at that psychiatric facility regarding the existence of severe mental disorders that seriously and directly endanger their own or others' life, health or safety.

By virtue of the final judgment, it was determined that the applicant committed criminal offences as a minor while being of unsound mind. In September 2017, he was placed in the Psychiatric Hospital Rab (PH Rab) for a period of six months with a diagnosis of paranoid schizophrenia. In February 2018, PH Rab proposed to the County Court in Rijeka that forced hospitalization be replaced with outpatient treatment. In the subsequent proceedings, based on a psychiatric expert report, it was considered necessary to continue the applicant's treatment in a psychiatric institution. As a result, the County Court in Rijeka prolonged the involuntary hospitalization for another year. Upon the applicant's appeal, this decision was abolished with an instruction to commission an additional expert report or a new expert witness evaluation. In the repeated proceedings, without conducting a new expert witness evaluation, the representative of the Hospital and the same experts who had previously treated the applicant were heard, resulting in the prolongation of the involuntary hospitalization for another year.

In the meantime, he again requested outpatient treatment, based on a privately commissioned expert witness evaluation. The courts rejected his proposal as well as the request for a new expert witness evaluation, and the Constitutional Court dismissed his complaint as ill-founded. However, the ECtHR

concluded that Croatian courts are obligated to obtain a new report and expert opinion when deciding on the periodic prolongation of forced hospitalization in a psychiatric institution or on a person's request for out-of-hospital treatment, which should be prepared by a person not employed by the institution where the patient is treated, except in special circumstances stipulated by the APPMD. Therefore, the ECtHR determined that the assessment of the applicant's mental state at the time of extension of involuntary hospitalization had not been made in a procedure based on the applicable legislation and that the process was marked by numerous deficiencies. The court rejected the request for a new expert witness evaluation with superficial explanations and contrary to the APPMD; neither of the two court instances provided reasons regarding why the expert witness evaluation was not conducted by a person who was not employed by the hospital where the applicant was being treated; the county court took no action on the applicant's request for release for almost three months, even though strict deadliness and urgent procedures are provided for by national legislation; the submissions in which the hospital opposes release and proposes the continuation of involuntary internment were only served to him at the hearing. His right to liberty guaranteed by Article 5, paragraph 1 of the ECHR was thus violated.

"My opinion is that the majority of people there were unlawfully held due to the actions of psychiatrists who kept them institutionalised without a court order, with the exception of those who were there voluntarily and had signed consent. I was not among those exceptions."

Acting on the complaint regarding involuntary hospitalization of a patient in PH Ugljan, based on the hospital's statement, we determined that the person in question had been deprived of their legal capacity for making decisions regarding medication and placement in an appropriate institution and he signed a consent form for voluntary institutionalisation.

In the statement of PH Ugljan, it was emphasised that they had acted in accordance with Article 12, paragraph 3 the APPMD, which states that "loss of legal capacity does not imply incapacity to give consent, so the capacity to give consent must be determined before implementing a medical procedure, even for individuals deprived of legal capacity." However, in this particular case, the person's legal capacity had been taken away by a court decision precisely regarding his ability to make decisions about medication, the provision of treatment and placement in an appropriate institution or hospital treatment. Therefore, consent from the designated guardian, as defined by the decision of the SWC, is necessary. While the consent of a person deprived of legal capacity is undeniably important to prevent institutionalisation without consent, in cases where a court has decided to take away legal capacity in regard to treatment and hospitalisation, the consent of the guardian is mandatory. Therefore, we recommended that in such situations, written consent of the guardian should be required, as we pointed out during the NPM visit to PH Ugljan in 2014.

Activities of the NPM: Visits to psychiatric institutions

We conducted unannounced regular visits to the PDGH Slavonski Brod and the Psychiatric Hospital Sveti Ivan, Jankomir (PH Sveti Ivan). With the aim of assessing the implementation of previous warnings and recommendations, we also conducted follow-up visits to the PC UHC Osijek and the PC UHC Rijeka.

During the visits, cooperation with the management and medical staff of these institutions was correct,

and there were no restrictions in terms of carrying out the NPM mandate. Representatives of the NPM were granted access to the data and records kept in written or electronic form.

Accommodation conditions

Accommodation conditions for patients within the healthcare system of the Republic of Croatia are regulated by the Ordinance on Norms and Standards for the Provision of Healthcare Services, which also applies to psychiatric institutions.

Based on the conducted NPM visits and previous years of experience regarding the existing conditions, it can be concluded that the accommodation conditions in certain psychiatric departments are not satisfactory and are in contradiction with the standards set by the Ordinance on Norms and Standards, as well as the recommendations of the CPT.
It was noticeable that in some situations, inadequate accommodation conditions affect the privacy of patients and limit their free movement, as well as lead to challenging circumstances in providing quality diagnostic and treatment procedures.

An example of spatial and organisational deficiency is the Emergency Admission Unit of PDGH Slavonski Brod.
The Unit is part of the Department, but it does not have pre-planned medical staff. Instead, physicians and nurses/technicians leave their regular duties in case of an emergency intervention, which can pose a safety problem in terms of the need for supervision of patients accommodated in the ward.

Recommendation 162 (reiterated)
For the Ministry of Health to: harmonise the accommodation conditions in psychiatric institutions with international and legal standards

In addition to the mentioned organisational issue, the emergency room is inadequate, which hinders the work of the medical staff who frequently intervene with individuals with mental disorders, requiring greater therapeutic effort and additional activities.

Due to limited spatial capacities of the healthcare institutions we visited, as well as inadequate organisational solutions, a common problem identified is the lack of facilities for a day room for patients, dedicated spaces for meal service and rooms for working with larger and smaller groups. According to the standards, a psychiatric ward must have a room of at least 20 m² for working with a small group and a room of at least 40 m² for working with a large group.

For example, PDGH Slavonski Brod has two separate rooms used as a day room and for meal service, where, due to the limited accommodation capacities, group therapies with patients are also organised and conducted by teams composed of physicians, occupational therapists and nurses, focusing on thematic, work-related and organisational therapies.

Photograph 8

As an example of aggravating circumstances in working with patients, it was observed that one of the departments of the PC UHC Osijek, divided into male and female wards located on different floors of the Clinic, does not have a day room in the female ward, while the day room in the male ward, due to its smaller size and limited capacity, cannot accommodate all the patients stationed in the wards at the same time. As a result, patient meals and therapy are organised in groups, with female patients being escorted from the female ward by nurses to the male department using the lift for the purpose of having meals, undergoing treatment activities and for leisure time.

Photograph 9

Photograph 10

A problem of lacking rooms for enhanced patient monitoring was identified, as Article 53 of the Ordinance on Norms and Standards stipulates that psychiatric departments must have two monitored rooms equipped with video surveillance. In that regard, we recommended to PDGH Slavonski Brod to install video surveillance in the rooms for enhanced patient supervision in order to ensure continuous monitoring by the medical staff, who previously carried out this task through small windows on the doors.

The issue of special facilities for applying coercive measures was noted at the PC UHC Osijek, as restraint measures are applied in rooms where the patients stay and in the presence of other patients. This is contrary to the purpose established by the Ordinance on Coercive Measures, considering the manner of application, which includes a conversation with the patient and the use of de-escalation techniques, which should be applied in a quiet room without the presence of other patients.

Similarly, there are no special facilities for the application of coercive measures in the PDGH Slavonski Brod, so they are applied in rooms where the patients stay and in the presence of other patients. Therefore, we recommended that special facilities be provided in the ward, equipped for safe restraint (video surveillance, alarm system), in order to protect patient privacy and reduce the risk of violence in shared rooms.

Photograph 11

During the follow-up visit, we found that two rooms in PC UHC Rijeka were still being used for coercive measures toward patients, despite being entirely inadequate according to CPT standards. The psychiatric institution in question was warned that accommodating patients in rooms with a surface area of 5.3 m², closed with iron doors, embedded in the ground (which prevents the installation of windows, obstructs natural light and fresh air flow) and with walls covered with ceramic tiles that can pose a danger to isolated patients, can further distress and traumatise patients, making their continued use inhumane treatment. Although PC UHC Rijeka stated in their response that the rooms are used for short-term confinement during agitation or aggressive behaviour of patients that may endanger other patients, accommodation in these rooms can lead to inhumane and degrading treatment and should therefore be discontinued.

Regarding safety concerns, we also pointed out the issue with the so-called "ramp," which is a fenced access structure at the entrance to PDGH Slavonski Brod. Due to its flat and smooth surface, it poses a risk regarding loss of control over transportation equipment and considering that some hospital beds do not have proper braking devices, this can lead to injuries of patients and staff.

Informed consent and voluntary institutionalisation

According to Article 25 of the APPMD, individuals with mental disorders may only be hospitalised in psychiatric institution with their written consent if treatment cannot be carried out outside of such institutions, and consent can be withdrawn at any time. This provision regulates the voluntary hospitalisation of patients in healthcare institutions, which requires the patient's valid informed consent. However, in order for informed consent to be valid, the following conditions must be met: adequacy of information for decision-making, communication of information in an appropriate manner

so that the patient can understand it, voluntary consent and the patient's capacity to make decisions about their treatment[xxxvi].

During visits, through focus groups and individual interviews, we found that most patients at the PC UHC Rijeka do not know which document they signed and that they have the right to withdraw their consent for treatment and request release. Their experience is that doctors alone decide on release from hospital, and that they are not consulted on the matter. Moreover, they report that due to their mental state, they cannot recall details about signing the consent form. Therefore, based on the experiences shared by patients, the consent may have been signed while they were in such a mental state that they could not understand the information presented about why hospital treatment was recommended for them. Considering that a large number of patients are agitated and have reduced capacity to comprehend information upon admission, it is necessary to assess the patient's capacity to understand the information in order to obtain consent for voluntary treatment (valid informed consent).

On the day of the visit to the PH Sveti Ivan, there were no involuntary hospitalisations, but through conversations with voluntary patients, we established that they were not fully aware of their hospitalisation status and that they believed that they were involuntarily accommodated.

By inspecting the documentation of the PC UHC Rijeka and the PH Sveti Ivan, it was found that coercive measures were applied to individuals who had signed informed consent for hospitalisation but had not given consent for the possible application of coercive measures. Therefore, if coercive measures are applied to a patient who has signed the consent but objects to such measures or no longer has the capacity to give consent, it is necessary to change the patient's legal status and to initiate forced hospitalization proceedings, provided that the criteria of Article 27 of the APPMD, stipulating when a person can be involuntarily accommodated, are met.

Recommendation 163

For the Ministry of Health to: ensure that patients are informed of their rights during their stay in psychiatric institutions and of the fact that voluntary consent applies to the entire period of hospital treatment

Most of the patients in the PC UHC Rijeka who signed informed consent and were admitted to closed ward cannot freely move, and it can be concluded that their treatment is contrary to the APPMD. In fact, if voluntary patients are kept in closed wards and any movement or exit requires a decision to be made in that regard by a doctor or medical staff, this is not voluntary hospitalisation but rather deprivation of liberty, and such treatment is therefore not lawful.[xxxvii] In cases where restriction of movement is necessary for treatment reasons, such as risk of suicide in a cooperative patient, the restriction may only be implemented with the patient's consent, which needs to be recorded in the medical documentation.

Coercive measures

By inspecting the medical documentation of the PC UHC Rijeka, it was determined that coercive measures were long-lasting, with 30-minute interruptions within a 24-hour period. The documentation contained no explanation for the prolongation of the coercive measures or the required indications for such actions. According to Article 61, paragraph 1 of the APPMD, coercive measures may only be applied as an exception, if they are the only means to avert imminent danger arising from the behaviour of a person with a mental disorder, which seriously and directly endangers their own or other's life or health.

Upon inspecting the reports of the PDGH Slavonski Brod, it was found that from 1 January to 30 June 2021, coercive measures were used 17 times, lasting on average for 26 hours, while from 1 July to 31 December 2021, they were used 18 times, with an average duration of 20 hours.

Upon inspecting the documentation of the PC UHC Osijek, we determined that there was no explanation given in the medical documentation for the reasons for prolonged application of coercive measures.

Recommendation 164 (reiterated)

For the Ministry of Health to: ensure that appropriate records are kept in all psychiatric wards regarding the use of coercive measures

It can be concluded that coercive measures were used for too long, contrary to the provisions of the APPMD, and that the need for their prolonged use was not clearly explained. Some patients who were subjected to coercive measures complained about the length of time they were restrained, which was often done at night, and one patient stated that dippers were also put on him. s. We would like to emphasise that putting diapers on patients who are not incontinent is humiliating treatment, and the lack of staff cannot justify such treatment.

Most of the patients we spoke with did not know why these measures had been applied to them. We interviewed a patient who had been isolated and restrained in a room without natural light and who told us that he felt claustrophobic in the room in which he was restrained, with no way to communicate with the staff, who were difficult to reach through the intercom in the room.

We found contradiction in the monitoring of the health status of patients subjected to coercive measures between the documentation kept by nurses and that kept by psychiatrists. For example, the documentation kept by nurses stated that the patient was sleeping or cooperating, while at the same time, the psychiatrist's monitoring form stated that the patient was unpredictable, dangerous to themselves and others, with low self-control, and that the use of coercive measures should be prolonged. It was likewise observed that the documentation was not consistently filled out, which was attributed to a shortage of medical staff. The staff shortage is particularly noticeable when it comes to the use of coercive measures, given that according to Article 10 of the Ordinance on the Types and Methods of Applying Coercive Measures, the process should be carried out by a team of at least five nurses/technicians in the team, and the procedure itself should last from 15 to 20 minutes. In conversations with patients who had been restrained, it was established that in general, two staff members apply this measure. It is thus necessary to employ a sufficient number of healthcare workers in order to apply the restraint measure in accordance with Article 10 of the Ordinance on the Types and Methods of Applying Coercive Measures.

Through analysis of the APPMD, we established that coercive measures are not stipulated by law as stated in the CPT standards, and that they are only defined in the Ordinance on the Types and Methods of Applying Coercive Measures to Persons with Severe Mental Disorders. According to the CPT standards, all types of coercive measures and criteria for their use should be regulated by law.

Recommendation 165

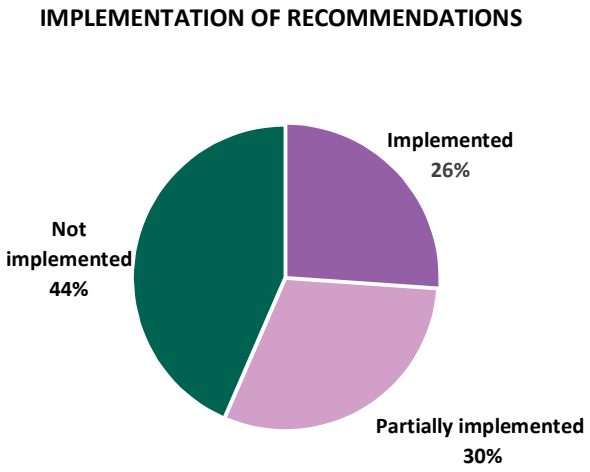
For the Ministry of Justice and Public Administration to: define the use of coercive measures in more detail in the Act on Protection of Persons with Mental Disorders

Furthermore, the Ordinance on the Types and Methods of Applying Coercive Measures does not specify minimum standards for rooms in which coercive measures are applied, and this needs to be regulated in order to protect the dignity and safety of persons with mental disorders.

It is likewise necessary to define the application of restraint measures more precisely. While the APPMD emphasises necessity and proportionality, i.e., it stipulates the use of coercion only in exceptional cases and for the duration necessary to avert the danger, this is not sufficiently emphasised in the Ordinance.

Evaluation of implementation of recommendations during follow-up visits

Follow-up visits were made to the PC UHC Rijeka and the PC UHC Osijek, with the aim of determining whether previously given warnings and recommendations had been implemented.



During the follow-up visits, it was established that there is a high percentage of recommendations that had not been implemented, specifically that 48% of recommendations had been partially implemented, while 10% had not been implemented at all. Aside from the recommendations, seven warnings were issued to the PC UHC Rijeka, and during the follow-up visit, only one was found to have been fully implemented, regarding the use of diapers for incontinent patients. The majority of unfulfilled recommendations pertain to accommodation conditions in the facilities housing persons with mental disorders, such as the lack of wardrobes, spatial constraints, inadequate day rooms and group work rooms, overcrowded patient rooms, lack of adequate elements on building façades and in courtyard spaces, as well as other factors that mostly compromise the patients' right to privacy, which can be considered as degrading treatment according to the CPT standards.

As an example of good practice, we highlight that the PC UHC Osijek, despite having limited space and accommodation capacities, implemented certain recommendations. For instance, during occupational therapy sessions, the staff closes off the day room, which then becomes a workspace for group activities. A corresponding notice is placed on the entrance door, and only authorised medical staff with electronic cards are allowed to access the area, in order to prevent unauthorised individuals from disrupting group therapy.

Photograph 12

Photograph 13

Furthermore, as an example of good practice in implementing recommendations, we highlight the Clinic's decision to no longer use part of the corridor for meal distribution to patients. It is likewise important to note the progress made in informing patients about their rights, although there is still a need to improve the complaint system to make it more accessible and simpler for patients through the use of available forms and complaint boxes.

5. DATA ON ACTIONS TAKEN IN 2022

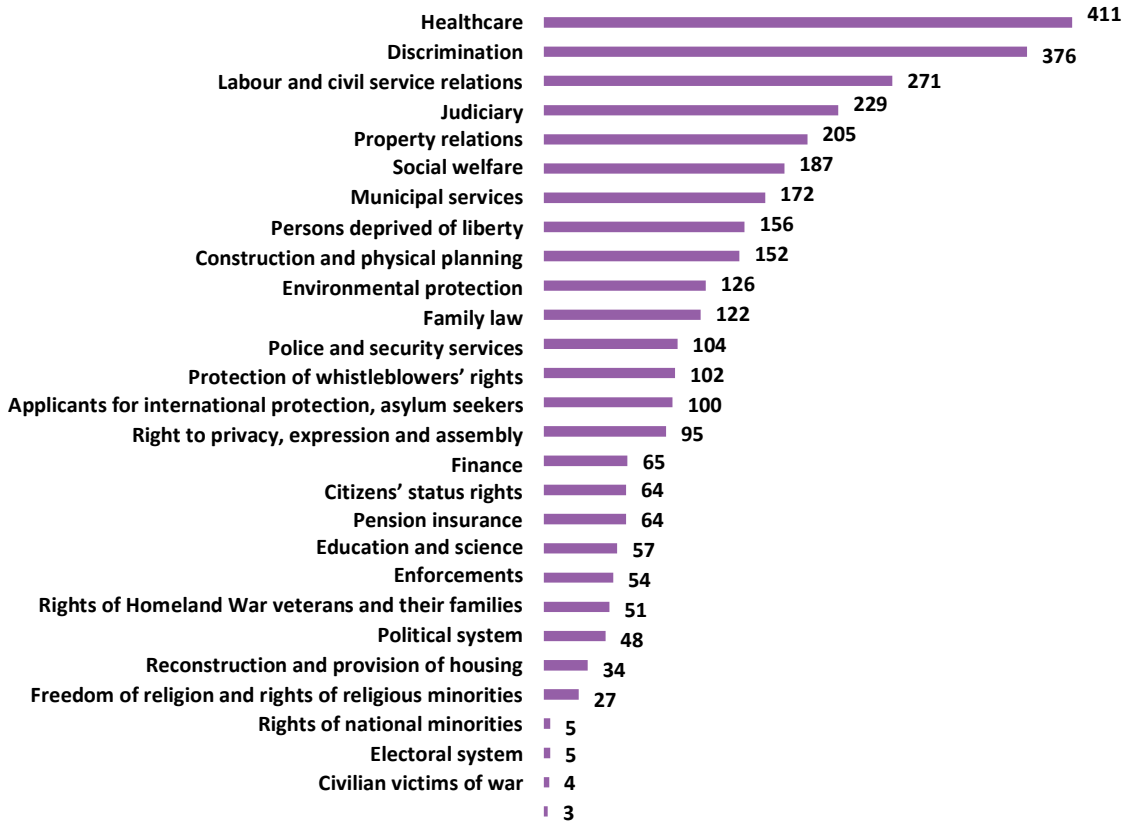
5.1. General statistical data on actions taken by the Ombudswoman

In 2022, we acted on a total of 6,099 cases, which is an increase of 5.7% compared to the previous year. As in previous years, the majority of the cases in which we acted were initiated based on citizens' complaints or our own initiative (4,585 or 75%). The remaining cases relate to actions taken regarding general initiatives, such as participation in various public events, public consultations, data collection, research and promotional activities (1,319 or 22%). Finally, a portion of the cases pertains to administrative tasks (195 or 3%).

Of the total number of cases we handled, 4,534 were newly opened in 2022, while 1,565 cases were carried over from previous years due to their complexity. Of the total number of newly opened cases, 3,289 were opened based on complaints or our own initiative, 1,050 were general initiatives and 195 were administrative tasks. The number of complaints received was 5% lower compared to 2021, while the number of cases opened in response to general initiatives increased by 14%.

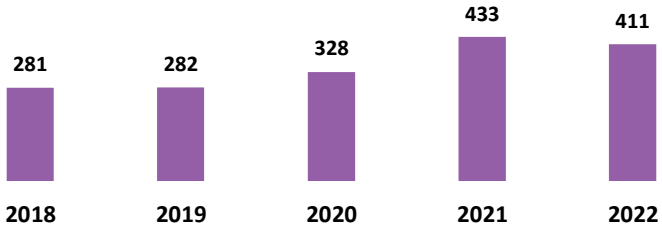
An overview of the cases opened in 2022 based on citizens' complaints or our own initiative (3,289) is presented below.

NEWLY OPENED CASES IN 2022 ACCORDING TO THE AREA OF LAW IN 2022



In 2022, the majority of complaints that we received concerned the healthcare sector (411); we have been receiving a significant number of complaints regarding this sector for several years.

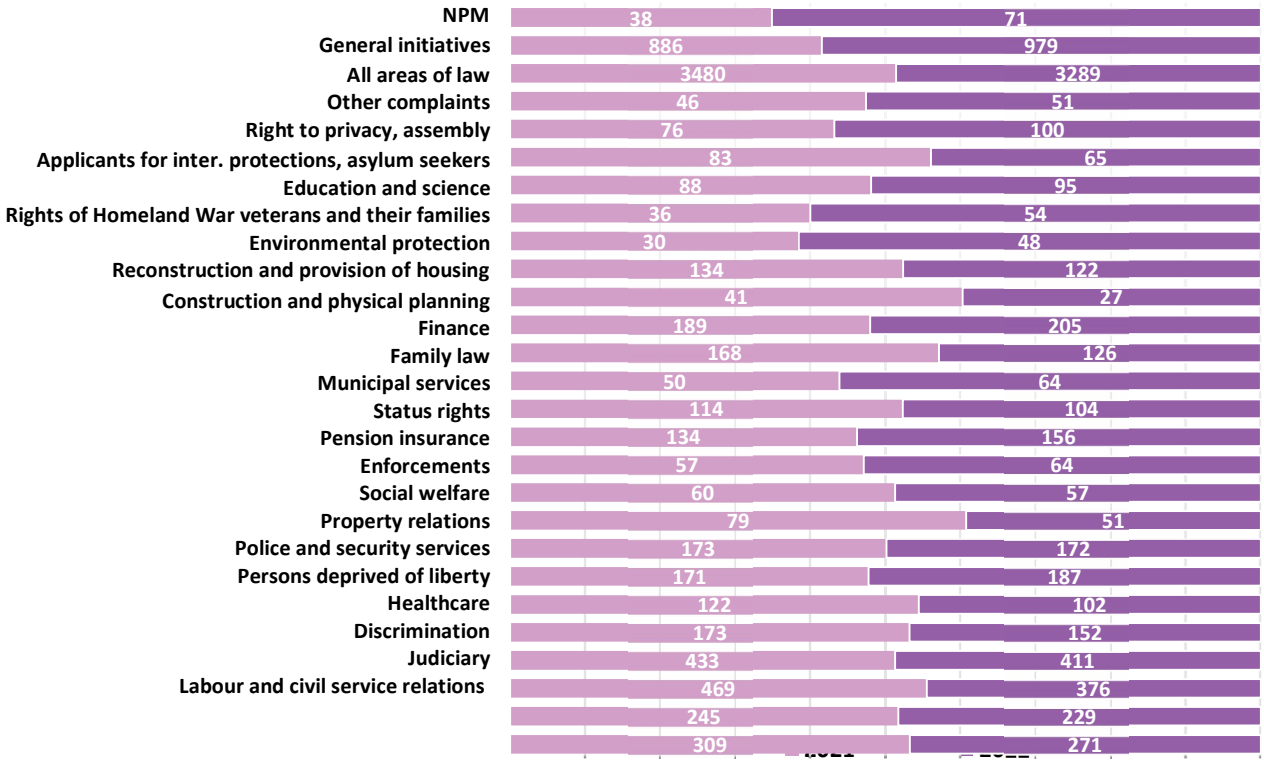
NUMBER OF COMPLAINTS RECEIVED REGARDING THE HEALTHCARE SECTOR



They are followed by complaints in the area of discrimination (376), labour and civil service relations (271), judiciary (229), business and the crafts (205), property relations (187), social welfare (172), municipal services (156) and complaints concerning persons deprived of liberty (152).

Looking at the percentage increase in individual areas compared to 2021, the largest increase occurred in complaints received regarding the rights of Homeland War veterans and their families (60%), and we usually receive a small number of complaints in this area. There has also been a significant increase in the areas of education and science (50%) and protection of persons reporting irregularities (32%), with the number of external reports of irregularities increasing by as much as 60%.

COMPARISON OF NEWLY OPENED CASES ACCORDING TO AREAS OF LAW



As many as 92% of the complaints were submitted by natural persons, while a smaller portion was submitted by legal persons, CSOs or public law bodies.

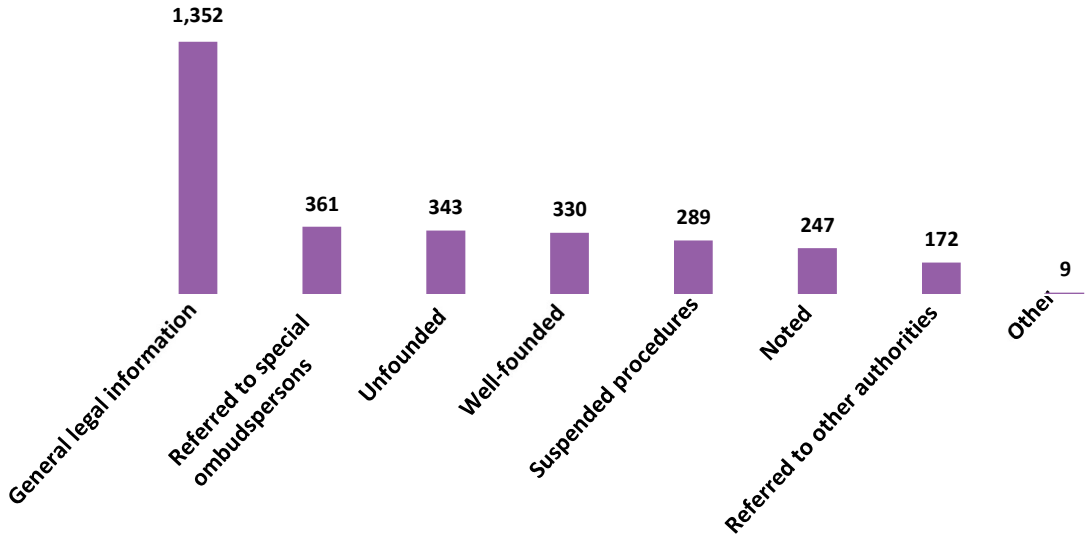
In terms of regional distribution, we received the significantly highest number of complaints from the City of Zagreb, followed by the Varaždin County, the Split-Dalmatia County, the Primorje-Gorski Kotar County and the Sisak-Moslavina County. Since we receive a large number of complaints via e-mail, it is not possible to determine the region from which they were sent for a large portion of them.

Of the 4,585 cases we processed based on citizen complaints or our own initiative, 3,103 were finalised. We have continued processing the remaining 1,482 cases in 2023, since they could not be concluded due to their complexity or lengthy procedures or due to unresponsiveness of the bodies whose responses are necessary for us to conclude the procedure.

The concluded cases were usually concluded when we provided general legal information to the complainants (44%). Based on their content, some complaints required us to refer them to competent authorities (5%) or special ombudspersons (12%). However, we continued to receive inquiries from citizens seeking information on legislation or its application, or instructions on how to proceed, which they could not obtain from the competent authorities responsible for implementing the relevant legislation. Additionally, they filed complaints against the administrative acts of other authorities. In such cases, we forwarded their submissions to the competent public law bodies. We also received complaints that fall under the mandate of special ombudswomen, which we referred to them for further action in accordance with the Agreement on Inter-Institutional Cooperation between the Ombudswoman and Special Ombudspersons.

In 11% of the cases, we found that rights had been infringed. In another 11% of the cases, after conducting an investigative procedure, we found that no infringement had occurred. An additional 17% of the complaints could not be investigated because the complainants did not provide us with all the necessary information even after we requested that they supplement their submission, or they decided not to pursue the complaint, or a procedure was already pending before another competent authority/court when they contacted us.

MANNER OF CONCLUDING CASES IN 2022



Finally, in addition to all the complaints and initiatives that we processed, it is important to note that the number of citizens who contact us is much higher. However, official statistics do not include phone calls from citizens that we receive on a daily basis, where we often provide them with the necessary information or guidance immediately.

5.2. Statistical data on actions taken by the Ombudswoman concerning discrimination

In 2022, we processed 774 cases related to discrimination, of which 594 were opened based on citizens' complaints or our own initiative, and 180 were related to general initiatives or participation in various events or promotional activities. The 594 complaints included newly received ones from 2022 (376) and complaints from previous years, which we continued to process during 2022 due to their complexity (218). Additionally, in 2022, we opened 139 cases based on general initiatives, and 41 were continued from previous years.

The number of newly received complaints, 376, is significantly lower than in 2021, when there were 469 complaints (the highest number of complaints received since the ADA entered into force in 2009), related to the COVID-19 epidemic. However, 376 complaints still represent a slight increase compared to years before that. Nevertheless, this number certainly does not reflect the actual presence of discrimination, as confirmed by the 2022 Survey on Attitudes and Perception of Discrimination and Its Forms.

In 2022, we received the highest number of complaints related to discrimination based on race/ethnicity/skin colour and national origin (23%). We also received a larger number of complaints related to discrimination based on health status (9%) and age (7%). We continue to receive complaints about discrimination based on disability, gender, marital or family status, sexual orientation and gender identity and expression, which fall under the jurisdiction of other ombudsperson institutions.

Among complaints regarding multiple grounds of discrimination, the most common were related to marital and family status and sex, health and age, race/ethnicity/skin colour and religion, as well as disability and health.

As in previous years, the highest number of complaints regarding discrimination was in the area of labour and employment (33%). This was followed by complaints in the area of access to goods and services (9%), and public information and media, education, social welfare and judiciary, each of which accounted for 5% of the total number of complaints.

GROUNDS OF DISCRIMINATION	NO. OF COMPLAINTS	%
Race, ethnicity or skin colour/national origin	86	23
Health status	33	9
Age	27	7
Disability	23	6
Political or other belief	17	4
Education	16	4
Sex	16	4
Marital or family status	10	3
Financial status	9	2.5
Social status	9	2.5
Sexual orientation	7	2
Trade union membership	6	1
Religion	5	1
Gender identity or expression	1	0.0
Language	1	0.5
Multiple grounds of discrimination	37	10
No grounds under the ADA	73	20
TOTAL	376	100

AREA OF DISCRIMINATION	NO. OF COMPLAINTS	%
Labour and employment	124	33
Access to goods and services	35	9
Public information and media	21	5
Education	19	5
Social welfare	19	5
Judiciary	18	5
Healthcare	16	4
Public administration	15	4
Pension insurance	12	3
Health insurance	10	3
Housing	8	2
Sports	5	1.5
Science	3	1
Membership in trade unions, CSOs, political parties	2	1
Cultural and artistic activity	1	0.5
Multiple areas	4	1
Discrimination in general	67	17
TOTAL	376	100

Natural persons submitted the highest number of complaints (267), with slightly more complaints received from women than from men. We initiated 21 discrimination cases on our own initiative, 49 were initiated based on complaints from different groups (such as CSOs, legal persons and others), and in 39 complaints, the complainants wished to remain anonymous or it was not possible to clearly determine who was complaining.

Complaints were most commonly submitted against legal persons, comprising 27% of received discrimination complaints. This was followed by state administration bodies (21%), natural persons (11%) and legal persons with public authorities (10%).

SEX AND TYPE OF COMPLAINANT	NO. OF COMPLAINTS
Woman	141
Man	126
Group	49
Unknown	39
Own initiative	21
Other (transgender, non-binary person, etc.)	0

TYPE OF PERSON AGAINST WHOM COMPLAINT WAS FILED	%
Legal person	27
State administration body	21
Anonymous	14
Natural person	11
Legal person with public authority	10
Judicial body	6
Other	6
Local or regional self-government unit	5
Civil society organisation	0

5.3. Aggregated data of all ombudsperson institutions

As the national equality body, in this section we present a comprehensive overview of new complaints concerning discrimination received by all ombudsperson institutions.

SEX AND TYPE OF COMPLAINANT	OMBUDSPERSON	FOR PERSONS WITH DISABILITIES	FOR CHILDREN	FOR GENDER EQUALITY
Woman	141	49	11	372
Man	126	60	13	132
Other (transgender, non-binary person, etc.)	-	-	-	-
Unknown	39	1	1	
Group	49	16	13	21
Own initiative	21	4		26
TOTAL	376	130	38	551

AREA	OMBUDSPERSON	FOR PERSONS WITH DISABILITIES	FOR CHILDREN	FOR GENDER EQUALITY
Membership in trade unions, CSOs, political parties	2	-	-	10
Public information and media	21	1	-	68
Cultural and artistic activity	1	2	-	1
Education	19	21	23	15
Sports	5	-	-	8
Science	3	-	-	2
Judiciary	18	6	1	25
Public administration	15	1	-	70
Access to goods and services	35	40	4	20
Labour	94	19	-	80
Employment	30	9	-	12
Pension insurance	12	4	-	4
Social welfare	19	7	1	155
Health insurance	10	-	-	45
Housing	8	2	-	1
Healthcare	16	3	-	27
Multiple areas	4	1	-	-
Discrimination in general	64	14	2	8
TOTAL	376	130	31	551

GROUNDS	OMBUDSPERSON	FOR PERSONS WITH DISABILITIES	FOR CHILDREN	FOR GENDER EQUALITY
Marital or family status	10	-	5	22
Trade union membership	6	-	-	1
Age	27	-	1	-
Social status	9	-	1	-
Genetic heritage	-	-	-	-
Financial status	9	-	-	-
Disability	23	129	2	2
Language	1	-	-	-
National origin	63	-	1	-
Education	16	-	-	1
Political or other belief	17	-	2	3
Race, ethnicity or skin colour/national origin	23	-	4	-
Gender identity or expression	1	-	2	10
Social origin	-	-	-	-
Sex	16		1	471
Sexual orientation	7		-	32
Religion	5		7	-
Health status	33	1	3	-
Multiple grounds of discrimination	37	-	-	-
No grounds under the ADA	73	-	2	9
TOTAL	376	130	31	551

6. COOPERATION AND PUBLIC ACTIVITIES IN PROMOTING HUMAN RIGHTS AND COMBATING DISCRIMINATION

6.1. Cooperation with stakeholders

Given its role, in 2022, the institution continued its cooperation with the Croatian Parliament, primarily through participation in the work of the committees of the Croatian Parliament, as well as with the Human Rights Council of the Croatian Government, state administration bodies and other state bodies, LRGUs, special ombudspersons, the Ombudswoman's Human Rights Council, councils and representatives of national minorities, CSOs and the academic community.

In this chapter, we also provide an overview of international cooperation with international organisations and as part of networks of related institutions, as well as an overview of the work of international human rights protection mechanisms in relation to Croatia.

Cooperation with institutions

In March 2022, the first session of the Human Rights Council, an interdepartmental and advisory body of the Government of the Republic of Croatia on human rights issues, was held. It is positive that at the meeting in April, the Ombudswoman presented the Annual Report for 2021, submitted on 31 March 2022, as well as the recommendations for competent bodies contained therein. After a constructive discussion on the Report, especially regarding the recommendations, the Council adopted a Conclusion requesting that public authorities take appropriate measures and activities to implement the Ombudswoman's recommendations, or to provide appropriate justification for the inability to implement them in the proposed manner. This is important because it confirms that recommendations have an effect from the moment when the Report is submitted, rather than from the time of discussion of the Report or from the moment of its acceptance. The Conclusion also indicated the need for constructive dialogue regarding the implementation of recommendations, as well as plans for thematic sessions of the Council on their implementation.

In July 2022, the EC published the Rule of Law Report, which included five recommendations for Croatia, including one to ensure a more systematic follow-up to recommendations and information requests of the Ombudswoman. In this context, we positively evaluate the continuation of cooperation with the Human Rights Council of the Croatian Government, which reviewed the Ombudswoman's recommendations related to the improvement of the rights of elderly persons at its third meeting in September 2022.

However, in order to fulfil the role of the commissioner of the Croatian Parliament for the protection and promotion of human rights, support from the Croatian Parliament and cooperation with it are crucial. It would certainly be helpful for increasing the level of implementation of recommendations from the 2021 Report if a discussion was held in that regard at a plenary session of the Croatian Parliament in the year when it was submitted, which was unfortunately not the case. This is also important because the Report of the Ombudswoman is not a report on her work, as is the case with numerous institutions that submit reports to the Croatian Parliament, but a report on the state of protection of rights and freedoms in Croatia. Numerous data and analyses contained therein lose relevance over time, so in order for the Report to achieve its intended effect, it is important for it to be presented to members of the Parliament so that they would have the opportunity to discuss it while the data, analyses and recommendations are still current. In this process, different public law bodies also make a great effort to collect and provide the data contained in the Report. Furthermore, we are concerned about the practice of untimely discussion of reports from various institutions, especially

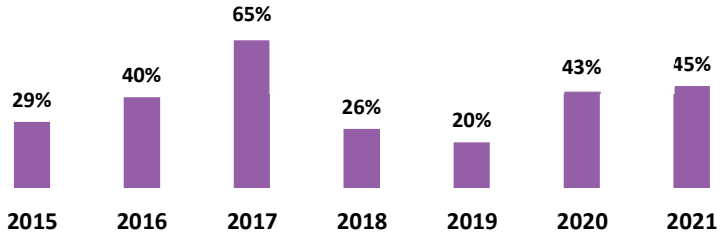
independent institutions, at plenary sessions of the Croatian Parliament.

In 2022, a discussion on the 2021 Report was held only within the Committee on Human and National Minority Rights.

In 2022, the Ombudswoman also submitted a separate report to the Croatian Parliament dedicated to the impact of COVID-19 on human rights and equality, with recommendations for strengthening resilience to future crises. Unfortunately, it has not yet been discussed either.

Regarding the implementation of recommendations from the 2021 Report, a more detailed overview is provided in individual chapters, as before. According to the analysis of responses we received from bodies to which the recommendations were addressed, the competent bodies implemented or are implementing 45% of the recommendations, slightly more than the 43% of recommendations implemented from the 2020 Report. Competent bodies did not implement 37% of recommendations, and we did not receive information on the implementation of 18% of recommendations addressed to the bodies.

IMPLEMENTATION OF RECOMMENDATIONS FROM THE REPORT



The OHRRNM, as the competent body for preparing reports on the implementation of the Ombudswoman's recommendations, did not prepare this report in 2022. The last such report was prepared for the Ombudswoman's 2013 Report, which means that this mechanism should be evaluated.

With regard to conducting of investigative procedures in cases opened based on citizens' complaints or on our own initiative, we can assess that cooperation with the bodies is generally good, with certain exceptions, which provided partial responses or did not provide responses on time, resulting in reminders being sent. Regarding unresponsiveness or delayed responses, the MH stands out; we made a recommendation in this Report for the MH to regularly respond to our inquiries.

Regarding the preparation of this Report, all ministries provided us with the requested responses, with the exception of the MPPCSA. The MJPA provided us with information on court cases related to discrimination in accordance with Article 14, paragraph 3 of the ADA, data on final judgements regarding hate crimes (including hate speech) and regarding the representation of national minorities in the judiciary on the day before the submission of this Report; for that reason, these data are not included in the Report. The OHRRNM did not provide us with consolidated data collected under the Protocol for Procedure in Cases of Hate Crime.

At the same time, we still do not have access to all data on the treatment of irregular migrants in the information system of the MI, which is further discussed in the section on applicants for international protection and irregular migrants.

Finally, during the year, we made significant efforts in terms of participating in numerous public consultations on acts, secondary legislation and strategic documents. We did this in order to point out the potential negative consequences for human rights and equality, as well as potential

improvements to proposed provisions, before the adoption of legislation and strategic documents. In addition, the Ombudswoman and her deputies participated in the work of committees of the Croatian Parliament, in the discussions on legislative proposals going through the legislative procedure, especially those on which we had previously provided opinions in public consultations, as well as in thematic sessions.

LIST OF PUBLIC CONSULTATIONS IN WHICH WE PARTICIPATED	
COMPETENT BODY	**LEGISLATION**
MF	- Draft Ordinance on Amendments to the Ordinance on the Manner and Procedure of Enforcement of Cash Assets - Consultation on the Draft Proposal of the Act on Amendments to the Income Tax Act
MESD	- Draft Proposal of the Regulation on the Methodology for Calculating the Price of Water Service - Proposal of the Ordinance on Waste Management
MCM	- Consultation on the Draft Proposal of the Theatres Act
MSTI	- Consultation on the Draft Proposal of the Act on Maritime Domain and Seaports
MA	- Public consultations on the Proposal of the Food Waste Prevention and Reduction Plan of the Republic of Croatia 2023–2028
MJPA	- Consultation on the Draft Proposal of the Act on Amicable Dispute Resolution - Consultation on the Proposal of the Methodology for Evaluating the Work of Court and State Attorney's Advisors - Consultation on the Draft Proposal of the Act on Amendments to the Associations Act, with the Final Draft Proposal of the Act - Consultation on the Proposal of the Ordinance on the Procedure for Collecting Opinions and Conducting Interviews with Candidates for Notaries Public - Consultation on the Draft Ordinance on Registers, Personal Information, Logbooks, Personal Files and Records Kept within the Prison System - Consultation on the Draft Proposal of the Act on Amendments to the State Registries Act, with the Final Draft Proposal of the Act - Consultation on the Proposal of the Ordinance on Standards and Procedures for Determining, as well as Appointment of Members and the Work of the Commission for Determining the Special Health Condition of Prison Officers - Consultation on the Draft Proposal of the Act on Amendments to the Civil Procedure Act - Consultation on the Draft Proposal of the National Public Administration Development Plan from 2021 to 2027
MPPCSA	- Public consultation regarding the Ex-ante Assessment Form for the Act on Amendments to the Apartment Lease Act
MLPSFSP	- Proposal of the Act on Amendments to the Social Welfare Act, with the Final Proposal of the Act - Consultation on the Proposal of the Act on the Suppression of Undeclared Work. - Draft Proposal of the Act on Amendments to the Labour Act - Ordinance on the Standards for Provision of Social Services and Catalogue of Social Services and Technical Support Jobs - National Plan for Combating Sexual Violence for the period 2022–2027
MI	- Consultation on harmonisation of the applicable International and Temporary Protection Act with the EU acquis
MH	- Consultation on the Draft Proposal of the Act on Amendments to the Compulsory Health Insurance Act - Consultation on the Draft Proposal of the Act on Amendments to the Healthcare Act - Draft Proposal of the Act on Water for Human Consumption

MSE	- **Consultation with the interested public on the Draft National Plan for the Development of the Education System until 2027** - **Consultation with the interested public on the Proposal of the Ordinance on Amendments to the Ordinance on Taking the State Graduation Exam**
CSODY	- **Public consultation on the Draft Proposal of the Act on Amendments to the Youth Councils Act**
CSORHC	- **Proposal of the Ordinance on Amendments to the Ordinance on Leasing Housing Units**
OHRRNM	- **Consultation with the interested public on the Action Plan for Combating Discrimination from 2022 to 2023** - **Proposal of the Action Plan for Combating Discrimination from 2022 to 2023** - **Consultation with the interested public on the National Plan for the Protection and Promotion of Human Rights and Suppression of Discrimination for the period 2022–2027** - **Consultation with the interested public on the Action Plan for the Protection and Promotion of Human Rights from 2022 to 2023**
OGE	- **Consultation on the Proposal of the National Plan for Gender Equality 2022–2027 and the Action Plan 2022–2024**
Office for Cooperation with NGOs	- **Consultation on the Draft Action Plan for Implementation of the Open Government Partnership Initiative in the Republic of Croatia for the period from 2021 to 2023**

Public events and training

During the year, we organised and co-organised several public events aimed at the protection and promotion of human rights and the rule of law.

On the occasion of the 30th anniversary of international recognition of the Republic of Croatia and in the run-up to the Day of International Recognition of the Republic of Croatia and the Day of Peaceful Reintegration of the Croatian Danube Region, in cooperation with the Faculty of Law of the University of Zagreb, we organised the conference "30 Years of Human Rights Protection in the Republic of Croatia: Past, Present and Future" in January 2022. The conference gathered a large number of participants in the field of human rights protection and several panels on various topics were held. The first panel was dedicated to the importance of human rights protection for international recognition and the future of Croatia, the second focused on the challenges faced by vulnerable groups in exercising their rights, the third addressed the protection of rights of persons deprived of liberty and the final panel was dedicated to the rule of law.

Photograph 14

In the autumn of 2022, we gathered key participants in the protection of human rights of elderly persons and organised a public debate on the protection of elderly persons from abuse of lifelong support and support-until-death agreements.

Photograph 15

As part of the First Parliamentary Summit of the International Crimea Platform, in October 2022, in cooperation with the Ukrainian Parliament Commissioner for Human Rights, we organised an online conference of Ombudspersons and national human rights institutions entitled “Battle for Human Rights. Crimea. Ukraine. The world.” The event was focused on the challenges related to human rights protection in Ukraine and the role of these institutions in the conflict and post-conflict contexts, including the reception of refugees fleeing from the war and the challenges they face when exercising their rights in other countries.

Photograph 16

Photograph 17

In November 2022, we marked the 30th anniversary of our institution with the conference “Protection of Human Rights and the Rule of Law”, and we brought together key participants in the protection of the rule of law and human rights in Croatia. On this occasion, the representative of the Speaker and Deputy Speaker of the Croatian Parliament, Furio Radin, and the Prime Minister, Andrej Plenković, expressed their support for the institution in their speeches.

The first panel focused on the current challenges that individuals face in exercising their human rights in Croatia.

The second panel was devoted to the future of the rule of law and human rights in Croatia and the role of independent institutions and establishing dialogue with citizens and CSOs.

Photograph 18

Throughout the year, we organised a series of training courses for various participants, including students, prison officers, probation officers, employers, lawyers, state officials, particularly those working with EU funds, unions and corporate lawyers. Since the new WPA came into force in 2022, special focus was placed on protecting whistleblowers, and we organised seminars on protection of whistleblowers in Rijeka, Split, Zagreb and Osijek.

Given the large number of training courses we conduct and the importance of education on human rights and their promotion for numerous participants, we established the Centre for Human Rights and Equality Education for the purpose of coordinating future training courses.

We conducted two surveys during the year: "Survey on Attitudes and Perception of Discrimination and Its Forms" and "How to Exercise Social Welfare Rights? Availability of information and administrative prerequisites for access to benefits in the social welfare system – GMB and one-time benefit."

Cooperation with other stakeholders

The Ombudswoman's Human Rights Council

At the end of 2022, the term of office of seven members of the second mandate of the Ombudswoman's Human Rights Council came to an end. For that reason, in October 2022, a public call for proposing new candidates for Council members was announced. On the International Human Rights Day, new members of the Council for Human Rights were appointed, as follows: Ana Horvat Vuković and Matija Miloš as representatives of the academia; Paulina Arbutina and Rosa Oršuš as representatives of national minorities; Marija Udiljak and Melisa Skender as representatives of the media; and Željka Leljak Gracin as a representative of civil society. Ivan Novosel, as a representative of civil society, continued with his work.

Cooperation with special Ombudswomen

During 2022, cooperation with the Ombudswoman for Gender Equality, the Ombudswoman for Children and the Ombudswoman for Persons with Disabilities continued through our work on cases, including through forwarding complaints in accordance with the competences of these institutions, mutual consultations in individual cases, as well as meetings and cooperation regarding joint topics.

At the initiative of the Ombudswoman, successful cooperation was established with the special ombudswomen in the preparation of a special report dedicated to the impact of COVID-19 on human rights and equality, with recommendations for strengthening the resilience to future crises. In addition, in cooperation with the special ombudswomen, the Ombudswoman prepared an alternative report for the UN Committee on Economic, Social and Cultural Rights.

Cooperation with civil society organisations

During 2022, we continued our cooperation with member organisations of the Anti-Discrimination Contact Points Network of the Ombudswoman, including through their referral of citizens' complaints to our institution, regular exchange of information and participation in various activities.

We continued to participate in the meetings of the Coordination of Humanitarians of the SMC as observers, in order to have direct insight into the problems of citizens after the earthquake.

We continue to cooperate with numerous other CSOs, especially in the areas of protecting the rights of elderly persons, youth, homeless people, veterans, migrants, accessibility of FLA, support for victims and witnesses of criminal offences, rights of national minorities, environmental protection and many others. Like in previous years, numerous CSOs working on human rights protection and combating discrimination provided us with their information and observations for the purposes of this Report.

6.2. International cooperation and international human rights protection mechanisms

Croatia and international human rights protection mechanisms

In May 2022, the Advisory Committee on the Framework Convention for the Protection of National Minorities and the OHRRNM organised a joint event in the Croatian Parliament with the aim of providing a platform for dialogue between the Advisory Board and the stakeholders in Croatia, in which we participated.

The EC published its third EU Rule of Law Report, including special chapters on each Member State and, for the first time, it included recommendations in it. Five recommendations were addressed to Croatia, regarding 1) the issue of periodic security checks of all judges and state attorneys, 2) the lack of legislation in the area of lobbying, 3) measures to strengthen the framework for a fair and transparent allocation of state advertising, 4) the issue of strategic lawsuits against public participation targeted at journalists and 5) strengthening the institution of the Ombudswoman.

Based on the visit to Croatia in December 2021, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabian Salvioli, issued a report on Croatia in July 2022. The Report recognises Croatia's accomplishments, but also identifies shortcomings and gives recommendations for further progress in these areas.

In September 2022, representatives of the CPT of the Council of Europe visited Croatia as part of a periodic visit. We held a meeting with them for the purpose of an evaluation of the situation concerning the rights of persons deprived of liberty.

In May 2022, Croatia presented its Fifth and Sixth Periodic Report in accordance with the Convention on the Rights of the Child.

Based on the approval of the Government of the Republic of Croatia and the notification submitted in September 2022 to the UN Economic and Social Council, Croatia was included in the list of UN Member States that will present their second Voluntary National Review of the implementation of sustainable development goals in Croatia at the UN's High-Level Political Forum (HLFP) in July 2023.

At the ninth meeting of the States parties to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, held in October 2022, 13 new members of the SPT were appointed, including Anica Tomšić, advisor to the Ombudswoman.

Ombudswoman Tena Šimonović Einwalter continued her mandate as member and one of two Vice-Chairs of the Council of Europe's ECRI. As ECRI co-representative, she participated in the work of the CAI of the Council of Europe, established with the aim of preparing the Framework Convention on AI, Human Rights, Democracy and the Rule of Law.

In our reports, we continuously point out the need to ratify as yet unratified international treaties, which would introduce the highest standards of human rights protection and non-discrimination to the Croatian legal system. This primarily includes the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the European Social Charter (Revised). In this regard, the MFEA informed us that, according to the information of the MLPSFSP, activities for the preparation of legal and broader analysis regarding the assumptions, challenges and benefits of ratifying the two documents are being resumed. Therefore, we are reiterating the recommendations related to them.

Recommendation 166 (reiterated)

For the Croatian Government to: ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Recommendation 167 (reiterated)

For the Croatian Government to: ratify the European Social Charter (Revised)

Participation in international forums and within networks

This year, cooperation with the UN, EU, CoE and OSCE bodies and institutions similar to ours continued within specialised networks: the Global Alliance of National Human Rights Institutions (GANHRI), the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (EQUINET), the International Ombudsman Institute (IOI), the European Network of Ombudsmen (ENO), the Association of Mediterranean Ombudsmen (AOM), the South-East Europe NPM Network (SEE NPM Network) and the Network of European Integrity and Whistleblowing Authorities (NEIWA).

In July 2022, the Ombudswoman Tena Šimonović Einwalter once again became the chair of the European Network of Equality Bodies (EQUINET). Representatives of the institution continued to participate in the ENNHRI working groups on legal issues, economic and social rights, communication, business and human rights, asylum and migration; in the group dedicated to climate change, which we also chair; as well as in the activities of the EQUINET working groups for anti-discrimination law, communication, standards for equality bodies, public policies and research and data collection. We likewise continued to participate in the work of the GANHRI Caucus on climate change and human rights. We also participated in the conferences and seminars of both networks; we particularly highlight those dedicated to the situation in Ukraine and the actions of independent institutions in crisis situations caused by armed conflicts. We regularly participated in the production of publications of these networks.

At the beginning of the year, representatives of the IOI visited us, and we discussed with them the functioning of multi-mandate ombudsman institutions and the impact of the pandemic on the rights of citizens and the work of ombudspersons worldwide.

We participated in a meeting of heads of NHRIs from the OSCE participating countries on the topic of strengthening NHRIs to deal with the challenges and threats they face.

The Deputy Ombudswoman participated in the Sixth Regional Conference of Equality Bodies in South-East Europe, which took place in Skopje, organised by the Commission for Prevention and Protection against Discrimination (CPPD).

In September 2022, the EU Agency for Fundamental Rights (FRA) held a conference entitled “Putting human rights at the heart of Europe’s future”, in which the Ombudswoman participated. The event brought together around sixty selected human rights experts with the objective of identifying the key challenges of our time and developing potential responses to them.

In October 2022, the Ombudswoman and Deputy Ombudswoman participated in the ECRI annual seminar with Equality Bodies entitled “Prohibition of discrimination: can a focus on intersectionality contribute to effective equality?”.

As part of bilateral cooperation, we visited the NPM in Slovenia, and representatives of the Ombudsman of the Republic of Kosovo visited our institution in order to get better acquainted with the Croatian mechanism for monitoring hate crimes. We also held a meeting with the Hungarian Commissioner for Human Rights, where information was exchanged on the protection of refugees fleeing Ukraine. We likewise met with representatives of the Commissioner for Protection from Discrimination of the Republic of Albania, organised by the Ombudswoman for Persons with Disabilities.

As part of the study visit of the representatives of the State Attorney’s Office of the Republic of Armenia, a working meeting was organised by the MJPA on the protection of whistleblowers, in which the Deputy Ombudswoman participated and presented the institution’s previous experience as the competent body for external reporting of irregularities.

During 2022, as part of the NPM mandate, we participated in a webinar organised by the SPT on the role of national mechanisms in monitoring places where migrants are deprived of liberty, in the ODIHR Regional Training in Warsaw on sexual and gender-based violence and monitoring of places of detention, and in an online workshop organised by the CoE on monitoring mental health care in prisons.

As part of the SEE NPM Network, we participated in two meetings held in Vienna, organised by the Austrian NPM as the Chair of the Network on the topics of care and health protection of persons deprived of liberty in the prison system, treatment of prisoners with mental illness in high-security prisons, minors with mental and physical disabilities in places of detention, and application of coercive measures on persons with disabilities and minors.

We also participated in meetings and conferences organised by the APT and the ODIHR on the rights of persons deprived of liberty and monitoring of application of coercive measures and equipment in the criminal justice system.

6.3. Public relations

Promoting human rights and equality is an important part of the institution's activities, since raising public awareness of these issues is also a prerequisite for their effective protection. Therefore, we give the necessary attention to communication with citizens, members of the Croatian Parliament, institutions, media and other stakeholders, primarily through the official website of the institution www.ombudsman.hr, social media, regular and thematic newsletters, media appearances and organising public events.

In 2022, we published the 2021 Annual Report in an interactive digital form to make it even more accessible, transparent and user-friendly.

Throughout the year, we responded to a large number of media inquiries regarding many topics in various areas of our competence, as well as issues that citizens face on a daily basis and concerning which they turn to us for help.

We also organised a series of media-covered events this year, including:

- The conference "30 Years of Human Rights Protection in the Republic of Croatia: Past, Present and Future";
- A public debate on the protection of elderly persons from abuses of lifelong support or support-until-death contracts;
- The conference "Protection of Human Rights and the Rule of Law" on the occasion of the 30th anniversary of the Ombudsman institution.

6.4. Perception of discrimination, personal experience and non-reporting

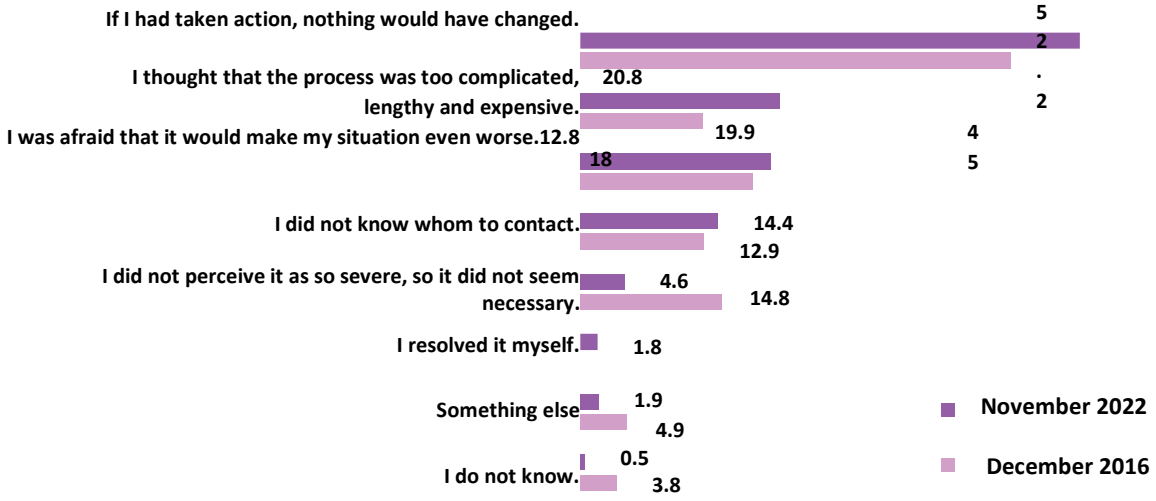
The number of complaints regarding discrimination submitted to our institution has gradually increased over the years, with the exception of a steep increase in 2021, when citizens reported discrimination in the context of the COVID-19 pandemic. Although we received 376 complaints in the past year, discrimination is reported less frequently than it occurs, which is confirmed by CSOs.

Our survey on attitudes and perception of discrimination conducted in 2022 also confirmed that non-reporting is still a prevalent practice. This is a periodic survey that we conducted four times so far (in 2009, 2012, 2016 and 2022) to examine the level of prejudice and stereotypes, familiarity with legislative and institutional frameworks, perception of the presence and personal experiences with discrimination.

28% of citizens of the Republic of Croatia believe they had been discriminated in the past five years - **which is the highest number so far**

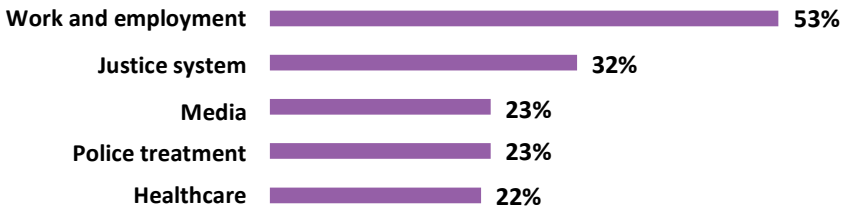
The survey indicated that 28% of the respondents believed they had been discriminated against once or more than once in the past five years, which was the highest number so far. The most common area where discrimination was experienced was work and employment. However, the number of those who took action in response to discrimination decreased since 2016, with only 40% of such persons taking any action. The main reason for non-reporting was still the belief that reporting would not change anything, which reflects a lack of trust in the system. Almost a quarter of the respondents did not report discrimination due to fear that the situation would worsen, and the same number felt that the process was complicated and lengthy.

Responses to the questions *Why did you not take any action?*



Among those who took action, the majority stated that they quit their job or retired, and there was a significant decrease in the number of those who engaged in private litigation. Unfortunately, few citizens stated that they contacted our institution, even though they often name us when asked who to contact if they experience discrimination. Additionally, a quarter of citizens still did not know who to contact.

AREAS WHERE DISCRIMINATION IS MOST COMMON
(citizens' perception)



The survey indicated that citizens still perceive work and employment as the area where discrimination is most common, and it is also the area in relation to which we receive the most complaints of discrimination. They also indicated the judiciary, media and police treatment. Among the characteristics that lead to more frequent discrimination (grounds of discrimination), citizens indicate national identity and origin, political beliefs, religious affiliation, sexual orientation and social origin and material status.

As for the group that experiences discrimination most often, citizens indicate the Roma, followed by LGBT persons, persons with disabilities, women and poor people. Regarding the most common discriminators, citizens indicate various public authorities, other natural persons and private employers.

GROUPS MOST DISCRIMINATED AGAINST
(citizens' perception)

In the past year, both in the complaints that we received and in public discourse, there were many examples of discrimination that occurred in the so-called private sector, during recruitment or service provision, where individuals believed that the prohibition of discrimination applied only to the public sector and therefore published advertisements with discriminatory criteria. More about such cases can be found in the chapters on discrimination based on race or ethnic origin, as well as on freedom of expression and hate speech. However, it is important to emphasise that the ADA applies to everyone, including private employers and service providers. With the aim of raising awareness about the prohibition of discrimination, in 2022, OHRRNM continued to provide training to employers, in which we also participated. Additionally, it would be useful to further investigate how well-informed service providers are about the prohibition of discrimination and whether citizens know that it applies to all areas, including access to goods and services, which should have been examined by the survey planned in the Action Plan for the Implementation of the National Anti-Discrimination Plan 2017–2019. As far as we know, the OHRRNM began preparations in 2021, but the survey itself was not conducted.

Recommendation 168

For the Office for Human Rights and Rights of National Minorities to: conduct research on the presence of discrimination related to access to goods and services

Among the results of our survey, positive progress was observed in terms of social distance, which decreased for LGBT persons, asylum seekers and older persons. However, for some groups, the level of stereotypes increased, primarily toward the Roma; likewise, more people support stereotypical attitudes about gender inequality in society.

CITIZENS' ATTITUDES – SOCIAL DISTANCE

55% **"The majority of the Roma live off social security benefits and do not want to work."**

39% **"The younger generations have no manners and lack any moral values."**

24% **"Women and men are not equal by nature, so they cannot have equal social roles."**

24% **"Older generations are much less capable than younger ones."**

22% **"I believe that it would not be good to employ asylum seekers."**

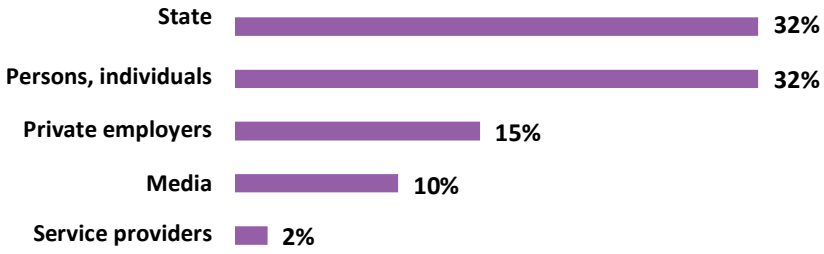
21% **"Most homeless people do not want to work and are responsible for their own situation."**

In addition, citizens still consider that discrimination is a major problem in society and there is increasing comprehension of discrimination as an action based on certain grounds of discrimination. However, 44% of them are still unaware of the legal prohibition of discrimination, and they do not know which institution is responsible for combating discrimination.

Citizens are increasingly recognizing discrimination, and **8** out of **10** consider it to be a problem in society

Therefore, there is still a need for education and information provision, starting with the fact that diversity cannot be a reason for unfavourable treatment and the fact that unequal treatment based on certain grounds is prohibited by the Act, as well as regarding whom the citizens who experience discrimination can contact. CSOs play a significant role in the fight against prejudice and discrimination, but also in providing support to victims, and it is necessary to ensure financial resources with which they will be able to continue such activities.

THE MOST COMMON DISCRIMINATORS
(citizens' perception)



Additionally, considering the many identified difficulties, as well as the fact that citizens believed that the state was responsible for discrimination in as many as 32% of cases, it is essential to plan comprehensive and long-term measures to combat discrimination. In the past year, the implementation of the National Anti-Discrimination Plan 2017–2022 expired, and since no Action Plan had been prepared for the period from 2020 to 2022, there are no publicly available data on the success and effects of the implemented measures.

Recommendation 169

For the Office for Human Rights and Rights of National Minorities to: continuously inform the public about the prohibition of discrimination and the protection mechanisms

Recommendation 170

For the Office for Human Rights and Rights of National Minorities to: continue educating the expert public on the forms of discrimination in line with the specific interests and needs of individual target groups

Given that the strategic document for combating discrimination has expired, and that the strategic human rights protection document had not been updated for six years, at the end of the year, the OHRRNM conducted a public consultation on the National Plan for the Protection and Promotion of Human Rights and Suppression of Discrimination 2022–2027 and on action plans for protection of human rights and suppression of discrimination.

The development of these documents has been ongoing for some time, and we, as well as CSOs, have been formally involved in it as part of the Working Group, but meetings were not held regularly. For that reason, we presented a series of proposals for improving the documents in the e-consultation, at a meeting of the Human Rights Council of the Croatian Government and at a gathering organised by a number of CSOs.

“Survey on Attitudes and Perception of Discrimination and Its Forms”

7. HUMAN RESOURCES, WORK CONDITIONS AND OFFICE BUDGET

Human resources and work conditions

As at 31 December 2022, the Office of the Ombudswoman employed 58 civil servants and one other employee, of whom 49 civil servants and one employee were employed at the institution's registered office in Zagreb, three civil servants were employed in the regional offices in Split and Osijek, and two civil servants were employed in the regional office in Rijeka. All civil servants and the employee were employed under open-ended employment contracts, while one civil servant was employed for a fixed-term. In terms of education qualifications, 50 civil servants have university qualifications, 6 have post-secondary qualifications, and 2 civil servants and one employee have secondary school qualifications.

In the 2020 Annual Report, a recommendation was made to the Croatian Government and the MPPCSA to provide adequate replacement office space for the institution, since the office located at Trg Hrvatskih Velikana in Zagreb was heavily damaged in the 2020 earthquake. Since this recommendation had not been implemented, it was repeated in the 2021 Annual Report. In 2022, the above recommendation was implemented and temporary additional office space was provided for the institution in Savska Ulica in Zagreb.

In 2022, the Office of the Ombudswoman was managed by the Ombudswoman and three deputies, who manage six Expert Services, in which advisors work in a horizontal relationship.

The Ombudsman Act stipulates the appointment of at least three deputies. Over time and based on the state's decision, new mandates were assigned to the institution, specifically four new mandates.

When the institution had only one (ombudsman) mandate, the ombudsman also had three deputies. Today, the institution has a total of five mandates: the ombudsman, the national institution for protection of human rights, the central body for combating discrimination, the institution performing the tasks of the National Preventive Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the competent body for external reporting of irregularities, which also monitors the protection of whistleblowers.

International standards for the work of independent institutions emphasise the importance of ensuring conditions for their work by the state, including adequate financial and human resources so that these institutions can perform all their tasks. In the case of expansion of an institution's mandate, standards specifically indicate the need for additional resources and capacities. The Principles on the Protection and Promotion of the Ombudsman Institution, adopted by the Venice Commission of the CoE, emphasise that the institution shall have sufficient staff and appropriate structural flexibility. The UN General Assembly Resolution on National Human Rights Institutions, the UN General Assembly Resolution on the Role of the Ombudsman, the ECRI General Policy Recommendation on the establishment and conditions for the work of equality bodies, and the Recommendation of the CoE Committee of Ministers on the development and strengthening of effective, pluralist and independent national human rights institutions likewise recognise the provision of adequate conditions as a key prerequisite for the effective work of these institutions. In the context of ensuring the conditions for the work of independent human rights institutions, the Commissioner for Human Rights of the Council of Europe continuously emphasises the importance of providing sufficient resources to institutions, including the number of persons in leadership positions, when expanding their mandate.

In the case of the Office of the Ombudswoman, the GANHRI Sub-Committee on Accreditation of National Human Rights Institutions made a recommendation in the last accreditation session in 2019 related to expanding the mandate of the Office as a body for protecting whistleblowers/competent body for external reporting of irregularities. Although the institution was strengthened in terms of staff with new civil servants for the purposes of this mandate, this was not reflected in the number of deputies.

Therefore, effective and timely performance in accordance with all mentioned mandates requires ensuring the professional and managerial resources for the institution, which is why it should be further strengthened by adding another deputy considering the current mandates and authorities.

Budget of the Office of the Ombudswoman

The budget for 2022 was HRK 16,215,780. It was implemented in the amount of HRK 15,379,872 or 94.84% of the planned amount. Staff expenditure reached 98.69%, material expenses reached 83.24% and expenses for acquisition of non-financial assets amounted to 99.71% of the planned budget. Compared to 2021, the budget increased by 10.87%, and this increase mainly pertained to the staff expenditure due to increase of salary and other rights according to the Collective Agreement for civil servants and employees, as well as recruitment due to the implementation of the Whistleblower Protection Act. Expenses for overhead costs likewise increased.

8. CONCLUSION

We prepared the 2022 Ombudswoman's Report in accordance with the regulations governing the work of the institution and the scope of the annual report – the Constitution, the Ombudsman Act, the Anti-Discrimination Act, Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Whistleblower Protection Act. It is based on 6,099 cases that we handled during 2022, of which 4,534 were newly opened; this pertains in particular to cases opened based on 3,289 citizen complaints and cases opened on our own initiative.

It relates to the year in which we celebrated the 30th anniversary of the Ombudsman institution, i.e., the entry into force of the first Ombudsman Act, and we are submitting it in the year marking the 75th anniversary of the UN Universal Declaration of Human Rights.

The Report provides an analysis and assessment of the state of protection of rights and freedoms in the Republic of Croatia, as well as an analysis and assessment of the state of certain forms of infringement of the rights of individuals or specific social groups. We present this analysis through five mandates of the institution: (1) the ombudsman mandate, which involves protecting citizens from unlawful actions of public authorities and protection of the right to good governance and rule of law; (2) the national human rights institution mandate, with a role in protecting and promoting human rights, especially international standards; (3) the mandate of the central anti-discriminatory body, or the equality body, which grants the institution powers in dealing with both the private sector and natural persons; (4) the mandate of the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which pertains to persons deprived of liberty; and (5) the mandate of the body for the protection of persons reporting irregularities, which was given to us in 2019 and pertains to the so-called whistleblowers.

The greatest value of the Report lies in its recommendations, of which we provided a total of 170 this year, aimed at addressing systemic deficiencies and irregularities that lead to infringement of constitutional and legal rights of citizens. According to the information we gathered, competent authorities implemented or were in the process of implementing 45% of the recommendations from the 2021 Ombudswoman's Report, which is slightly higher compared to the implementation rate of 43% for the 2020 Report. At the same time, 37% of the recommendations were not implemented, and we have no information regarding 18% of the recommendations. The Office for Human Rights and Rights of National Minorities did not prepare a report on the implementation of the Ombudswoman's recommendations during 2022, even though it is responsible for doing so. The last time such a report was prepared was for the Ombudswoman's Report for 2013.

We submit this Report at a time when the previous report, the 2021 Ombudswoman's Report, has not yet been discussed at a plenary session of the Croatian Parliament, but only within the Committee on Human and National Minority Rights. The absence of a discussion at a plenary session of the Croatian Parliament diminishes the efforts to protect citizens' rights more effectively, so we hope that this Report will be discussed in the year in which it was submitted, while the data, analyses and recommendations contained within it are the most relevant, in order for the Report to achieve its impact.

Appendix: List of abbreviations and acronyms

AEM	Agency for Electronic Media
AOM	Association of Mediterranean Ombudsmen
ATMIP	Agency for Transactions and Mediation in Immovable Properties
APT	Association for the Prevention of Torture
GDP	Gross Domestic Product
FLA	Free legal aid
CAI	Committee on Artificial Intelligence of the Council of Europe
CGAS	Communauté Genevoise d'action syndicale
WMC	Waste Management Centre
COP15	UN Biodiversity Conference
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
SWC	Social Welfare Centre
SIRC	State Inspectorate of the Republic of Croatia
SAO	State Attorney's Office of the Republic of Croatia
SAC	State Attorney's Council
SJC	State Judicial Council
CBS	Croatian Bureau of Statistics
ECRI	European Commission against Racism and Intolerance of the Council of Europe
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
EQUINET	European Network of Equality Bodies
ECtHR	European Court of Human Rights
EU	European Union
FER	Faculty of Electrical Engineering and Computing
FINA	Financial Agency
FINDHR	Fairness and Intersectional Non-Discrimination in Human Recommendation
FRA	EU Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency

EPEEF	Environmental Protection and Energy Efficiency Fund
GANHRI	Global Alliance of National Human Rights Institutions
GRECO	Group of States against Corruption
CCAA	Croatian Civil Aviation Agency
CRC	Croatian Red Cross
HEP	Hrvatska elektroprivreda
CNCh	Croatian Notaries Chamber
CMC	Croatian Medical Chamber
CNH	Croatian Network for the Homeless
EMS	Emergency medical services
CNB	Croatian National Bank
CJA	Croatian Journalists' Association
CBA	Croatian Bar Association
HRT	Croatian Radiotelevision
CIPH	Croatian Institute of Public Health
CPII	Croatian Pension Insurance Institute
CES	Croatian Employment Service
CHIF	Croatian Health Insurance Fund
IOI	International Ombudsman Institute
IPCC	Intergovernmental Panel on Climate Change
PWSP	Public water service providers
LRGU	Local or regional government unit
LGU	Local government unit
UHC	University Hospital Centre
CCFM	Coordination of Croatian Family Medicine
PC	Psychiatry Clinic
CPPD	Commission for Prevention and Protection against Discrimination
CC	Criminal Code
LGBTQ	English abbreviation for: "lesbian, gay, bisexual, transgender, questioning, queer, intersex, androgynous/agender/asexual"
MF	Ministry of Finance
MVA	Ministry of Veterans' Affairs
MESD	Ministry of Economy and Sustainable Development

MCM	Ministry of Culture and Media
MMATI	Ministry of Maritime Affairs, Transport and Infrastructure
MD	Ministry of Defence of the Republic of Croatia
MJ	Ministry of Justice
MJPA	Ministry of Justice and Public Administration
MPPCSA	Ministry of Physical Planning, Construction and State Assets
MLPSFSP	Ministry of Labour, Pension System, Family and Social Policy
MRDEUF	Ministry of Regional Development and EU Funds
MI	Ministry of the Interior
MFEA	Ministry of Foreign and European Affairs
MH	Ministry of Health
MSE	Ministry of Science and Education
NEIWA	Network of European Integrity and Whistleblowing Authorities
NHRI	national human rights institution
IMM	Independent Mechanism of Monitoring Illegal Migration and International Protection
OG	Official Gazette
NPM	National Preventive Mechanism
SEE NPM	South-East Europe NPM Network
NRRP	National Recovery and Resilience Plan
AVEB	Allowance for Vulnerable Energy Buyers
CSO	Civil society organisation
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Co-operation in Europe
CMCE	Recommendations of the Committee of Ministers of the Council of Europe
PDGH	Psychiatry Department of the General Hospital
Preliminary EIA	Preliminary assessment of the requirement for an environmental impact assessment
PGKC	Primorje-Gorski Kotar County
SHCP	Subsidised Housing Construction Program
EIA	Environmental Impact Assessment
RC	Republic of Croatia
CSORHC	Central State Office for Reconstruction and Housing Care
SFRY	Socialist Federal Republic of Yugoslavia
SLAPP	Strategic lawsuits against public participation

SMC	Sisak-Moslavina County
SPT	UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SEA	Strategic Environmental Assessment
CPU	Croatian Pensioners' Union
COPS	Central Office for the Prison System
SAB	State administration bodies
AI	Artificial intelligence
OHRRNM	Office for Human Rights and the Rights of National Minorities
UN	United Nations
CAD	County administrative department
USKOK	Office for the Suppression of Corruption and Organised Crime
CARNM	Constitutional Act on the Rights of National Minorities
CoE	Council of Europe
EMC	Electronic Media Council
HMC	High Misdemeanour Court
SCRC	Supreme Court of the Republic of Croatia
EMA	Electronic Media Act
AHWV	Act on Homeland War Veterans
CCA	Croatian Citizenship Act
EPSA	Execution of Prison Sentence Act
CPA	Criminal Procedure Act
GMB	Guaranteed minimum benefit
ITPA	International and Temporary Protection Act
ANPM	Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ACHWV	Act on Civilian Homeland War Victims
ACHWVTFM	Act on Croatian Homeland War Veterans and their Family Members
COA	Civil Obligations Act
APTA	Act on Police Tasks and Authorities
LA	Labour Act
AF	Act on Foreigners
CHIA	Compulsory Health Insurance Act
AOPOP	Act on Offences against Public Order and Peace

ADA	Anti-Discrimination Act
SWA	Social Welfare Act
PICSA	Public Internal Control System Act
AHPAA	Act on Housing Provision in the Assisted Areas
GAPA	General Administrative Procedure Act
ASAHE	Act on Scientific Activity and Higher Education
APPMD	Act on Protection of Persons with Mental Disorders
WPA	Whistleblower Protection Act
APPR	Act on the Protection of Patients' Rights
HA	Healthcare Act

Appendix: Photographs – sources

1. Photograph by the Ombudswoman – consequences of the earthquake
2. Photograph by the Ombudswoman – sea pollution
3. Photograph by the Ombudswoman – waste disposal in a pit
4. Photograph by the Ombudswoman – improper parking
5. Photograph by the Ombudswoman – room in a prison
6. Photograph by the Ombudswoman – room in a prison
7. Photograph by the Ombudswoman – room designated for the disciplinary measure of solitary confinement
8. Photograph by the Ombudswoman – room in a psychiatry clinic
9. Photograph by the Ombudswoman – room in a psychiatry clinic
10. Photograph by the Ombudswoman – psychiatry department
11. Photograph by the Ombudswoman – room in a psychiatry clinic
12. Photograph by the Ombudswoman – psychiatry clinic
13. Photograph by the Ombudswoman – room in a psychiatry clinic
14. Photograph by the Ombudswoman – conference
15. Photograph by the Ombudswoman – public consultation
16. Photograph by the Ombudswoman – international conference
17. Photograph by the Ombudswoman – conference
18. Photograph by the Ombudswoman – training

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COURT OF JUSTICE OF THE EU

Case C-54/07: Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV
Case C-250/18: European Commission v Republic of Croatia
Case C-563/15: European Commission v Kingdom of Spain

Appendix: Contributions to the Report

LOCAL AND REGIONAL GOVERNMENT UNITS

Town of Bjelovar
Town of Dubrovnik
Town of Gospić
Town of Karlovac
Town of Knin
Town of Koprivnica
City of Osijek
Town of Pazin
Town of Poreč
Town of Pula
City of Rijeka
Town of Rovinj
Town of Slavonski Brod
City of Split
Town of Varaždin
Town of Vinkovci
Town of Virovitica
Town of Vukovar
Town of Zadar
City of Zagreb
Town of Zlatar
Kraljevec na Sutli Municipality
Bjelovar-Bilogora County
Brod-Posavina County
Dubrovnik-Neretva County
Istria County
Karlovac County
Koprivnica-Križevci County
Krapina-Zagorje County
Lika-Senj County
Međimurje County
Osijek-Baranja County
Požega-Slavonia County

Primorje-Gorski Kotar County
Sisak-Moslavina County
Split-Dalmatia County
Šibenik-Knin County
Varaždin County
Virovitica-Podravina County
Vukovar-Srijem County
Zadar County
Zagreb County

CHAMBERS

Croatian Notaries Chamber
Croatian Dental Chamber
Croatian Council of Physiotherapists
Croatian Chamber of Medical Biochemists
Croatian Nursing Council
Croatian Chamber of Midwives
Croatian Chamber of Health Professionals
Croatian Medical Chamber
Croatian Chamber of Pharmacists
Croatian Bar Association

COMMISSIONS FOR THE PROTECTION OF PATIENTS' RIGHTS

Commission for the Protection of Patients' Rights in the Zagreb County
Commission for the Protection of Patients' Rights in the Bjelovar-Bilogora County
Commission for the Protection of Patients' Rights in the Brod-Posavina County
Commission for the Protection of Patients' Rights in the Dubrovnik-Neretva County
Commission for the Protection of Patients' Rights in the City of Zagreb
Commission for the Protection of Patients' Rights in the Istria County
Commission for the Protection of Patients' Rights in the Krapina-Zagorje County
Commission for the Protection of Patients' Rights in the Međimurje County
Commission for the Protection of Patients' Rights in the Osijek-Baranja County
Commission for the Protection of Patients' Rights in the Požega-Slavonia County
Commission for the Protection of Patients' Rights in the Međimurje County
Commission for the Protection of Patients' Rights in the Primorje-Gorski Kotar County
Commission for the Protection of Patients' Rights in the Split-Dalmatia County
Commission for the Protection of Patients' Rights in the Varaždin County
Commission for the Protection of Patients' Rights in the Vukovar-Srijem County
Commission for the Protection of Patients' Rights in the Zadar County

CIVIL SOCIETY ORGANISATIONS

Are You Syrious
B.a.b.e.
White Circle Croatia
BIOM Association
Caritas of the Archdiocese of Đakovo-Osijek
Caritas of the Zadar County
SOS Rijeka – Centre for Nonviolence and Human Rights
Centre for the Culture of Dialogue – CCD
Centre for Peace, Non-violence and Human Rights, Osijek
Centre for Peace Studies
Centre for Support and Development of Civil Society "Delfin", Pakrac
CESI – Centre for Education, Counselling and Research
DOOR – Society for Sustainable Development Design

Forum for Freedom in Education
GONG
Croatian Red Cross – Town Branch Županja
Citizens' initiative "Petrinja Spring"
HERA Križevci
HOMO
Brave Phone
Croatian Network of Social Supermarkets
Croatian Employers' Association
Croatian Association for Promotion of Patients' Rights
Caritas Croatia
Croatian Red Cross
Croatian Law Centre
Croatian Journalists' Association
Information Legal Centre Slavonski Brod
Youth Initiative for Human Rights
Coordination of Humanitarians of the Sisak-Moslavina County
Human Rights House
Lesbian Organisation Rijeka – LORI
Network of Associations Zagor
Civil Rights Project Sisak
"Pravda" – Association of Persons Injured in Terrorist Attacks
Legal Clinic in Split
Law Clinic in Zagreb
Roma National Minority Representatives of the Bjelovar-Bilogora County
DEŠA – Dubrovnik Regional Centre for Community Building and Civil Society Development
Regional Youth Information Centre Osijek
RODA (Parents in Action)
S.O.S. – counselling, empowerment, cooperation
Croatian Pensioners' Union
SNC – Serb National Council
Social-Service Cooperative Martinov plašt
SOS Children's Village Croatia
SOS Zagreb
IKS Association, Petrinja
Milosrđe Association
Mobbing Association
MoSt Association Split
Novi Put Association
SRMA Association
StarKa Association
EVERYTHING for HER Association
Victim and Witness Support Service
Sunce – Association for Nature, Environment and Sustainable Development
Association for Promotion of Equal Opportunities (APEO)
Green Istria Association
ZvoniMir Association
La Verna – Volunteers in Palliative Care
Joint Council of Municipalities – Vukovar

Green Action (Friends of the Earth Croatia)
Women's Group Karlovac "Step"
Women's Room – Centre for Sexual Rights
Women's Association "IZVOR" Tenja

UNIONS

Croatian Medical Union
Independent Trade Unions of Croatia
New Trade Union
Union of Autonomous Trade Unions of Croatia
Metal Workers' Trade Union of Croatia
Trade Union of Croatian Journalists
Police Union of Croatia
Commercial Trade Union of Croatia
Trade Union of Employees in Agriculture, Food and Tobacco Industry, and Water Management of Croatia
Trade Union of Employees in the Security Industry

RELIGIOUS COMMUNITIES

Bahá'í community
Croatian Bishops' Conference
Islamic Community in Croatia
Old Catholic Church of Croatia
Church of the Nazarene in Croatia
Jewish Community in Rijeka

UNIVERSITIES AND FACULTIES

Faculty of Political Science in Zagreb
Faculty of Humanities in Pula
Faculty of Humanities and Social Sciences, University of Rijeka
Faculty of Law in Zagreb
Catholic University of Croatia
Josip Juraj Strossmayer University of Osijek, Faculty of Law in Osijek
Juraj Dobrila University of Pula
University of Split

INSTITUTES

Institute of Economics, Zagreb
Institute of Social Sciences Ivo Pilar
Ruđer Bošković Institute
Institute of Ethnology and Folklore Research
Institute of Public Finance

Institute for Migration and Ethnic Studies
Institute for Development and International Relations
Water Institute

INTERNATIONAL ORGANISATIONS

International Organization for Migration – IOM
World Bank
UN Refugee Agency – UNHCR Croatia

COURTS

Municipal Court in Crikvenica
Municipal Court in Dubrovnik
Municipal Court in Đakovo
Municipal Court in Gospić
Municipal Court in Karlovac
Municipal Court in Koprivnica
Municipal Court in Kutina
Municipal Court in Makarska
Municipal Court in Metković
Municipal Court in Novi Zagreb
Municipal Court in Osijek
Municipal Court in Osijek
Municipal Court in Pazin
Municipal Court in Pula
Municipal Court in Rijeka
Municipal Court in Sesvete
Municipal Court in Sisak
Municipal Court in Slavonski Brod
Municipal Court in Split
Municipal Court in Split
Municipal Court in Šibenik
Municipal Court in Varaždin
Municipal Court in Velika Gorica
Municipal Court in Vinkovci
Municipal Court in Virovitica
Municipal Court in Vukovar
Municipal Court in Zadar
Municipal Court in Zlatar
Municipal Civil Court in Zagreb
Municipal Misdemeanour Court in Split
Municipal Misdemeanour Court in Zagreb
Municipal Labour Court in Zagreb
Commercial Court in Osijek
Commercial Court in Rijeka
Commercial Court in Split

Commercial Court in Zagreb
Administrative Court in Osijek
Administrative Court in Rijeka
Administrative Court in Split
Administrative Court in Zagreb
High Misdemeanour Court of the Republic of Croatia
High Administrative Court of the Republic of Croatia

Constitutional Court of the Republic of Croatia

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