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1. INTRODUCTION

The year behind us was characterized by numerous challenges to the work aimed at the protection of human rights and liberties and the elimination of discrimination. Some of these issues are recurring and have already been discussed in our previous reports, while the new ones need to be brought to the attention of the Croatian Parliament and the public so that they could be addressed in an efficient, sustainable and far-reaching manner. In line with the Ombudsman Act, the Anti-discrimination Act and the Act on the National Preventive Mechanism, the 2015 Annual Report of the Ombudswoman of Republic of Croatia contains an analysis and an evaluation of the state of the protection of human rights and fundamental freedoms in the Republic of Croatia as well as the recommendations aimed at the elimination of the systemic irregularities noted. Based on the available information and in view of the fact that up until the moment of the submitting of this report the Government of the Republic of Croatia had not yet adopted the Report on the Implementation of the Recommendations of the Ombudsman for the Year 2014, the text before you also provides an estimate of the degree to which our recommendations have been implemented by the competent bodies they were directed at.

The analysis and the evaluation provided in this report reflect to a significant degree the 4.655 cases we worked on in the course of the previous year. As a result of the expansion of the Office's mandates over the years as well as of the greater level of its accessibility to the citizens achieved by the opening of the regional offices and through a more intense communication with the public, in 2015 the number of cases has reached its all-time high. This report is based on the citizens' complaints submitted to the Office as well as on the data collected through the regular cooperation with the relevant stakeholders, field visits, media reports and the information contributed for this purpose by the government institutions and other public bodies, social partners, religious communities, CSOs and many others.

In 2015 we opened our third regional office in the city of Split. The permanent presence of the ombudsman institution in the areas away from the capital contributes strongly to its greater accessibility to the citizens and facilitates the cooperation with the local stakeholders. In line with the aforementioned, in the course of previous year the Office organized a number of meetings with police administrations, professional associations, institutions and NGOs from all around the country to discuss topics such as the normative framework, good practice, the possible solutions to the observed problems as well as the possibilities of operative cooperation. We continued with the implementation of the activities aimed at public awareness-raising on the topic of discrimination and the education of the citizens, employers and many other key stakeholders on how to identify and prevent discrimination. An important element of this work is our antidiscrimination telephone line, the only of this kind in the Republic of Croatia, which in the course of the previous year alone 167 citizens used to contact the Office.

In their complaints the citizens often express feelings of despair and frustration resulting from the years of meandering through the system without being able to find the solutions to their problems. The citizens lack the information on their rights and the institutions competent for

handling their complaints. The degree of their distrust of the system, whether aimed at the judiciary, the state administration, state bodies or the bodies of the regional or local self-government units, is especially worrying, while the large number of regulations and the inconsistencies between them only add to the problem. As a consequence, they either remain silent about the issues they are facing or are attempting to solve them by engaging the media outlets. However, the bypassing of the regular remedies undermines the principle of the rule of law and legal safety, thus slowing down the necessary systemic change.

The presidential as well as the parliamentary elections in the Republic of Croatia took place in 2015, which contributed to intensification of inappropriate public discourse. Inappropriate and discriminatory messages as well as hate speech directed at the members of the minority groups are especially worrying. Their high numbers point to the need for a stronger institutional engagement, which is a necessary step if the perpetrators are to be sanctioned and in order for these types of behaviors to be prevented more successfully in the future.

National minorities continue to face a series of obstacles in the exercising of their rights and are the most common victims of discrimination. Along with the elderly, the sick and the poor, they are one of the most vulnerable groups in the rural areas of the country, where the citizens encounter difficulties or are completely denied the access to the public services. Many of the inhabitants of these areas live without running water, electricity, access to the medical facilities and public transportation and are often completely cut off from the rest of the country due to the poorly maintained roads and not able to fulfill their most basic needs and exercise their legal rights.

Poverty, inadequate diet and inappropriate working conditions directly contribute to the development of health problems as well. A clear connection can be drawn between one's living standard and their health condition, leading to the conclusion that the more wealthy members of the society enjoy a privileged position when it comes to the exercising of the right to health. Although the waiting lists for some of the medical procedures or treatments have been shortened, for certain procedures they are still being created several years in advance and the patients often do not have access to the new and more efficient generations of medications. The announced rationalization of the health care system, to be achieved primarily by cutting the costs, represents a true danger for the quality of the health care provided to the citizens. Therefore, the reform needs to be focused on the improvement of the position of the most vulnerable groups – the poor, the elderly, persons suffering from serious illnesses and those inhabiting rural areas.

The number of the visits, including visits to prisons and penitentiaries, police stations, homes for the elderly, psychiatric institutions, as well as the places where the refugees were accommodated or through which they were passing on their way through Croatia, performed by the National Preventive Mechanism, increased significantly in 2015. No conditions or behaviors falling within the definitions of torture or inhuman treatment were found. However, those that might constitute degrading treatment were detected. The problem of overcrowding in the prison system has been reduced, however, accommodation conditions are still not harmonized with the

prescribed standards and the provision of health care to the persons deprived of their liberty is still deficient to a considerable degree.

The year behind us was significantly marked by the refugee crisis. By the end of December 2015 more than 550.000 persons passed through Croatia trying to reach safety in Europe. Despite all challenges, our country succeeded in protecting the rights and the dignity of the persons fleeing danger they were facing in their countries of origin. Along with international organizations, NGOs, experts and volunteers, a great number of citizens were offering their help and solidarity, especially those inhabiting the cities and villages the refugees were passing through on their way.

The activities of the Office of the Ombudswoman aimed at the protection and promotion of human rights received international recognition as well: in December 2015 Ombudswoman was elected Chair of the European Network of National Human Rights Institutions (ENNHRI) and received a mandate in the governing body of the Global Alliance of the National Human Rights Institutions (GANHRI) within the UN's Human Rights Council. The engagement at the international level will provide for a stronger sounding board for the citizens' problems at the global level as well as facilitate the exchange of good practices with other countries.

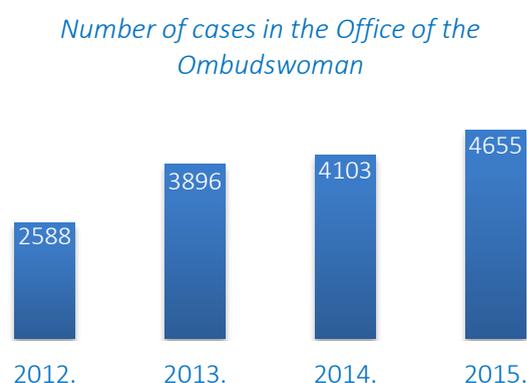
2. STATISTICAL DATA FOR 2015

2.1. DATA ON THE ACTIVITIES OF THE OFFICE

Activities of the Office in 2015

In 2015 the Office of the Ombudswoman worked on the total of 4.655 cases. This is an 80% increase in comparison with 2012, 19% in comparison with 2013 and 13% in comparison with 2014.

In 4.452 cases based on citizens' complaints or the Office's own initiative, we investigated the allegations of violations of citizens' rights and worked to facilitate systemic change. Out of this number, 921 cases were carried over from the previous years and 3.531 were opened in 2015. 2.917 of the latter refer to individual violations of the citizens' rights, which is a 12% increase in comparison with 2014. In the past three years the number of new cases has surpassed by 40% to 60% the number of cases received in the preceding periods, which speaks in favour of the measures undertaken by the Office with the aim of increasing its accessibility.



The Office of the Ombudswoman operates in four cities: Zagreb, Split, Osijek and Rijeka. The complaints can be submitted in person, via the regular and the electronic mail and by telephone. In the course of the previous year, the Office received several thousands of citizens' calls. The Office also instigates proceedings based on the information gathered from the media and other sources and on third-party (e.g. an NGO) initiative.

As in the previous years, in 2015 the Office continued monitoring the respect for human rights via the performance of field visits within its mandates of the National Preventive Mechanism, the national equality body as well as within its ombudsman mandate. 77 visits were performed to numerous homes for the elderly, penal institutions, refugee routes as well as Roma villages and settlements.

Continuing the trend from 2014, the highest number of cases opened in 2015 referred to the areas of justice, civil service and employment relations and discrimination. For a third year in a row the Office received a high number of complaints in the areas of property relations and the conduct of police officers and we have recorded a continuous rise in the number of the cases related to enforcements.

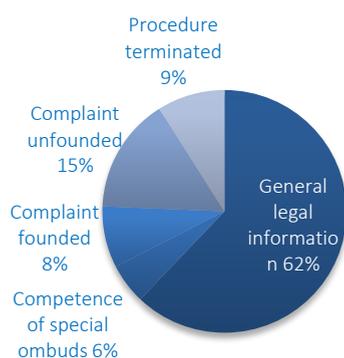
Cases opened 2012-2015, by the area they referred to

| Area | 2012 | 2013 | 2014 | 2015 |
|--|-------------|-------------|-------------|-------------|
| Justice | 416 | 366 | 339 | 359 |
| Civil service and employment relations | 164 | 200 | 226 | 316 |
| Discrimination (in various areas) | 202 | 248 | 263 | 284 |
| Property relations | 55 | 215 | 178 | 205 |
| Conduct of police officers | 53 | 186 | 179 | 204 |
| Enforcements | 22 | 119 | 159 | 180 |
| Health care | 64 | 221 | 138 | 178 |
| Persons deprived of their liberty | 219 | 200 | 178 | 165 |
| Social welfare | 69 | 93 | 119 | 150 |
| Construction, physical planning and environmental protection | 62 | 179 | 143 | 119 |
| Pension insurance | 44 | 88 | 73 | 98 |
| Family law | 30 | 41 | 61 | 93 |
| Utility services | 63 | 91 | 70 | 92 |
| Status-related rights | 65 | 140 | 84 | 69 |
| Housing care and reconstruction | 21 | 97 | 44 | 56 |
| Finances | 27 | 142 | 59 | 51 |
| Rights of war veterans and their family members | 28 | 59 | 58 | 51 |
| Education and science | 6 | 21 | 31 | 21 |
| National Preventive Mechanism | 168 | 223 | 125 | 128 |
| Other complaints | 260 | 385 | 537 | 593 |
| Total | 2115 | 3406 | 3162 | 3531 |

Almost 50% of the complaints were filed in Zagreb, 35% in the Split, Rijeka and Osijek regional offices and 7.1% were submitted by the citizens living abroad, mostly in Serbia, Belgium and Bosnia and Herzegovina.

Out of the 2.917 new cases based on individual complaints, 2.214 (75%) were resolved by the

Cases opened and resolved in 2015



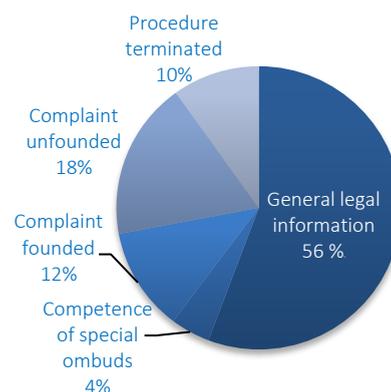
end of the year, whereas for 703 (25%) of them, mostly due to their complexity, the procedure is still ongoing. In 1.375 (62%) of the resolved cases the citizens were provided with general legal information, whereas 119 (6%) of them related to possible violations of the rights falling under the competence of the special ombuds, which are resolved in line with the Cooperation Agreement signed between the ombuds institutions. In 720 (28%) of the resolved cases an investigation procedure was conducted after which in 181 (8%) of them violations of the citizens' rights were

found and warnings, recommendations, opinions or proposals were issued to the competent bodies with a view of remedying the violations in question. In 199 (9%) of the cases the

procedures were terminated following the withdrawal of the complaint by the complainant, while in other 340 (15%) the complaint was determined to be unfounded.

A total of 2.873 of the cases based on individual complaints and opened in 2015 and the previous years, were resolved by the end of 2015. In 1.602 (56%) general legal information was provided and 129 (4%) were determined to be under the competence of the special ombuds. In 1.142 investigation procedures were conducted, after which 339 (12%) of the complaints were determined to be founded, 518 (18%) unfounded and in 285 (10%) cases procedures were terminated due to the withdrawal of the complaint by the complainant.

Resolved cases, based on individual complaints



Activities of the Regional Offices

A little under 800 citizens personally contacted the Rijeka regional office, 398 of which were interviewed at the office's premises, while approximately the same number contacted the office by telephone. 223 cases were opened, whereas the rest of the complainants were provided with general legal information or were advised to contact the competent bodies. Most of the citizens contacting the Rijeka office were Rijeka natives or were coming from other towns in the Primorje-Gorski Kotar County. In comparison with 2014, the number of discrimination complaints filed by the citizens of this County rose by a high 115%. Apart from discrimination, a significant number of complaints referred to the social welfare system, the long duration of the administrative and judicial proceedings and the inadequate accommodation conditions in high security facilities.

The Osijek regional office was contacted by 630 citizens, mostly coming from Osijek and other parts of the Osijek-Baranja and Vukovar-Srijem Counties. 360 of them visited the office, 260 contacted it by telephone and 10 by mail. Most of the complaints received by this regional office referred to the judiciary, reconstruction and the provision of housing, pension insurance, the functioning of the units of local self-government and legal entities owned by them, the obstacles to the exercising of the social welfare rights, enforcements, employment relations and, slightly less, to the work of the police and the Tax Administration, the exercising of the rights of the Homeland War veterans and to health insurance.

In the first three months since its opening, 426 persons, predominantly from the Split-Dalmatia and the Šibenik-Knin but also from the Zadar and the Dubrovnik-Neretva Counties, contacted the Split regional office. Most of them were interviewed at the office's premises; 125 contacted it by telephone and others via regular or electronic mail. To a large extent their complaints were related to property relations, social welfare rights, labor law, enforcements, pension insurance, rights of the Homeland War veterans, discrimination, the provision of housing in the areas of special state concern, family law issues and conduct of the police.

Cooperation with the Competent Bodies

As part of her work the Ombudswoman can request information from the competent bodies and they are obliged by the law to provide it. During the course of the previous year the cooperation with the aforementioned bodies was predominantly successful. However, the Ministry of Construction and Physical Planning, Ministry of Science, Education and Sports, Ministry of Maritime Affairs, Transport and Infrastructure as well as the Zagreb University, Zagreb Clinical Hospital Center and the State Property Management Administration were among those that frequently failed to respond to our requests or to respond in a timely manner.

For the purpose of preparing this report we requested information from 362 competent state bodies, CSOs, religious communities, professional associations, scientific institutions and trade unions. Among the public bodies the Ministry of Health was the only one that failed to respond. In the course of the performance of the NPM's field visits certain misunderstandings related to the nature and scope of the Ombudswoman's mandates were noted. As a consequence, in the very beginning of the refugee crisis we were denied access to places and information in several occasions, which constitutes a violation of the provisions of the Ombudsman Act as well as of the Act on the National Preventive Mechanism. Additionally, during one of the NPM visits the management of a penal institution failed to cooperate. However, the situation was resolved and Ombudswoman's mandates were successfully executed.

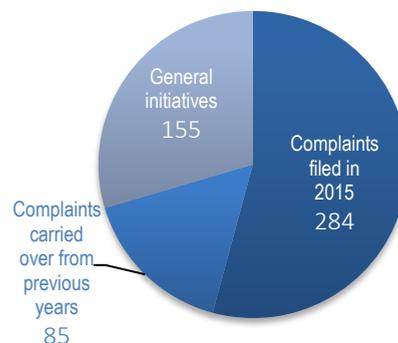
2.2. STATISTICAL DATA ON THE OCCURRENCES OF DISCRIMINATION

2.2.1. Discrimination Complaints Received by the Office of the Ombudswoman

In 2015 the Office worked on the total of 524 discrimination cases, 369 of which were complaints and 155 general initiatives. 284 complaints were filed in 2015 and 85 were carried over from the previous years. In comparison with 2014, the number of discrimination complaints has risen by 8% and has been continually growing since 2009, when the Office received the status of the national equality body.

The citizens' complaints still most frequently refer to the areas of work and employment (43.6% of the total number), followed by those related to the work of the public administration (26 complaints or 9.1%) and to the areas of public information and the media and the access to goods and services. In 21 (6%) of the cases the citizens cited discrimination in two or more areas, whereas in 19 they did not indicate a specific discrimination area but instead complained of discrimination in the general sense.

Discrimination cases in 2015



| Area | Number of complaints | Percentage |
|---|----------------------|------------|
| Labor | 64 | 22,5 |
| Employment | 60 | 21,1 |
| Public administration | 26 | 9,1 |
| Public information and the media | 21 | 7,4 |
| Access to goods and services | 21 | 7,4 |
| Justice | 14 | 4,9 |
| Education | 9 | 3,2 |
| Social welfare | 8 | 2,8 |
| Housing | 7 | 2,5 |
| Health care | 7 | 2,5 |
| Pension insurance | 6 | 2,1 |
| Sports | 5 | 1,8 |
| Science | 4 | 1,4 |
| Health insurance | 4 | 1,4 |
| Membership in trade unions, NGOs, political parties | 3 | 1,1 |
| Discrimination-general | 19 | 6,7 |
| Multiple areas | 6 | 2,1 |
| Total | 284 | 100 |

Analyzed by discrimination grounds, 25% of the complaints cited discrimination on the basis of race, ethnicity or skin color and national origin, followed by age (9.9%), health condition (8.1%), education (7.4%), political or other belief (5.6%) and religion (4.2%), whereas other grounds accounted for a smaller number of the complaints. As in the previous years, many of the citizens complained of multiple discrimination. In 45 (15.9%) complaints multiple grounds were cited as reasons for differential treatment, most common of which, again, were race, ethnicity or skin color, followed by age, education, religion and sex. We received 32 complaints with no specific discrimination ground indicated or indicating a characteristic not covered by the provisions of the Anti-discrimination Act.

| Discrimination grounds | Number of complaints | Percentage |
|--|----------------------|------------|
| Race, ethnicity, skin color, national origin | 68 | 23,9 |
| Age | 28 | 9,9 |
| Health condition | 23 | 8,1 |
| Education | 21 | 7,4 |
| Political or other belief | 16 | 5,6 |
| Religion | 12 | 4,2 |
| Social status | 9 | 3,2 |
| Economic status | 8 | 2,8 |
| Disability | 7 | 2,5 |
| Sex | 7 | 2,5 |
| Marital or family status | 2 | 0,7 |
| Trade union membership | 2 | 0,7 |
| Sexual orientation | 2 | 0,7 |
| Language | 1 | 0,3 |
| Gender identity or expression | 1 | 0,3 |
| Multiple grounds | 45 | 15,9 |
| Not covered by ADA | 32 | 11,3 |
| Total | 284 | 100 |

194 of the received complaints were filed by natural persons, 68 by CSOs, legal persons or groups of individuals, 7 were anonymous, whereas 22 of the cases were opened at the Office's initiative, mostly on the basis of the information published in the media.

Public administration bodies, legal persons, legal persons vested with public authority and, to a lesser degree, bodies of the regional and local self-government units were most commonly indicated as the perpetrators of discrimination.

Out of the total of 369 discrimination complaints worked on in 2015 for 226 the investigative procedure was undertaken and finalized by the end of the year. In 61 of these cases discrimination was found and a recommendation, an opinion, a warning, or a public statement issued with the aim of eliminating or preventing discriminatory conduct. In 77 cases no unequal treatment was detected and the complainants were informed accordingly.

In the remaining cases it was impossible to determine whether discrimination had occurred or not due to the procedural reasons. In the cases in which irregularities were found that did not constitute discrimination but were possible human rights violations the Ombudswoman resumed with the proceedings. The complaints citing discrimination grounds falling under the competence of the special ombuds were transferred to those institutions and the complainants were duly notified. In certain cases the complainant's claims could not be verified due to the scarcity of the information supplied and the failure of the complainants to submit additional data, whereas some of the cases had already been decided upon by a court of law or were subject to judicial proceedings.

2.2.2. Consolidated Data of All Ombuds Institutions

In line with the provisions of the ADA special ombuds institutions keep records of discrimination cases under their competence and deliver them to the Office of the Ombudswoman. The tables below contain consolidated data for all ombuds institutions, segregated by the sex of the complainant, discrimination grounds and areas and the body/person complained against.

Complaints under the ADA in 2015, according to the complainant's sex

| Sex of the complainant | Office of the Ombudswoman | Ombudswoman for Persons with Disabilities | Ombudswoman for Children ¹ | Ombudswoman for Gender Equality |
|------------------------|---------------------------|---|---------------------------------------|---------------------------------|
| Female | 79 | 11 | 4 | 242 |
| Male | 115 | 6 | 4 | 109 |
| Unknown ² | 7 | - | - | - |
| Group of individuals | 68 | 1 | 12 | 22 |
| Office's initiative | 22 | - | - | 31 |
| Total | 291³ | 18 | 20 | 404 |

Complaints under the ADA in 2015, according to discrimination grounds

| Grounds | Office of the Ombudswoman | Ombudswoman for Persons with Disabilities | Ombudswoman for Children | Ombudswoman for Gender Equality |
|--|---------------------------|---|--------------------------|---------------------------------|
| Marital or family status | 2 | - | 4 | 16 |
| Trade union membership | 2 | - | - | - |
| Age | 28 | - | 1 | - |
| Social status | 9 | - | - | - |
| Genetic heritage | - | - | 1 | - |
| Economic status | 8 | - | - | - |
| Disability | 7 | 18 | - | - |
| Language | 1 | - | - | - |
| Education | 21 | - | - | - |
| Political or other belief | 16 | - | - | - |
| Race, ethnicity or skin color, national origin | 68 | - | 7 | 1 |
| Gender identity and expression | 1 | - | - | 5 |
| Social origin | - | - | - | - |
| Sex | 7 | - | - | 364 |
| Sexual orientation | 2 | - | - | 18 |
| Religion | 12 | - | 7 | - |
| Health condition | 23 | - | - | - |
| Multiple discrimination | 45 | - | - | - |
| No grounds under ADA | 32 | - | - | - |
| Total | 284 | 18 | 20 | 404 |

¹ The data contained in this table refer to children-victims of discrimination. In most cases the complaints were filed for them by an adult: the child's mother in seven cases and the father in three. One complaint was filed by a female child, five by groups of individuals, three by the Ombudswoman and one anonymously.

² An anonymous complaint.

³ The number of complainants exceeds the number of complaints due to the fact that some of the complaints were filed by groups of complainants.

Complaints under the ADA in 2015, according to the body/person complained against

| Body/person complained against | Office of the Ombudswoman | Ombudswoman for Persons with Disabilities | Ombudswoman for Children | Ombudswoman for Gender Equality |
|--|---------------------------|---|--------------------------|---------------------------------|
| Natural person | 26 | 1 | 6 | 42 |
| Legal person | 68 | 3 | - | 75 |
| Legal person vested with public authority | 55 | 6 | 9 | 120 |
| State administration body | 80 | 3 | 2 | 112 |
| Judicial body | 12 | 2 | - | 24 |
| NGO | 3 | 1 | - | 5 |
| Bodies of the regional/local self-government units | 20 | 2 | 3 | 16 |
| Other | 20 | - | - | 10 |
| Total | 284 | 18 | 20 | 404 |

Complaints under the ADA in 2015, according to discrimination areas

| Area | Office of the Ombudswoman | Ombudswoman for Persons with Disabilities | Ombudswoman for Children | Ombudswoman for Gender Equality |
|---|---------------------------|---|--------------------------|---------------------------------|
| Membership in trade unions, NGOs, political parties | 3 | - | - | 9 |
| Public information and the media | 21 | 1 | - | 41 |
| Cultural and artistic creation | - | - | - | 3 |
| Education | 9 | 6 | 13 | 12 |
| Sports | 5 | 1 | - | 4 |
| Science | 4 | - | - | - |
| Justice | 14 | 2 | - | 24 |
| Public administration | 26 | 1 | 2 | 73 |
| Access to goods and services | 21 | 4 | 1 | 18 |
| Labor | 64 | 2 | - | 89 |
| Employment | 60 | - | - | 29 |
| Pension insurance | 6 | - | - | 1 |
| Social welfare | 8 | 1 | 1 | 84 |
| Health insurance | 4 | - | - | 5 |
| Housing | 7 | - | - | 3 |
| Health care | 7 | - | 1 | 8 |
| Multiple areas | 6 | - | - | - |
| Discrimination-general | 19 | - | 2 | 1 |
| Total | 284 | 18 | 20 | 404 |

2.2.3. Suppression of Discrimination at the National Level and the Problem of Underreporting

Judicial protection is only one of the available mechanisms for the suppression of discrimination. Taking into account the fact that unequal treatment most commonly stems from stereotypes and prejudice directed at particular social groups and their members, education and awareness-raising about the unfoundedness and unacceptability of such attitudes and on the illegality of such behaviors contribute to the elimination of discrimination as well.

The National Plan for the Suppression of Discrimination ended in 2013 and the new document has not been drafted yet.

A national strategy that would indicate the government's plan of action in the suppression of discrimination does not exist at the moment. The implementation period of the National Plan for the Suppression of Discrimination ended in 2013 and the new document, although planned, has not been drafted yet, which we discuss in more detail in the section covering our participation in the legislative procedures.

Combatting discrimination at the national level has been foreseen, to a lesser degree, by the National Plan for the Protection and Promotion of Human Rights for the period 2013-2016, which contains measures for the provision of continuing education for all relevant stakeholders as well as measures aimed at awareness-raising about the incidences and the prohibition of discrimination.

Although the 2013-2016 Plan envisages continuous trainings for judges, lawyers, state attorneys, members of the police force, CSOs, trade unions, employers and the representatives of the media, in 2015 only two were organized for civil servants and two for the prison system employees. Furthermore, the training sessions for civil servants were organized as one of the indicators of the ex ante criteria for the use of the resources from the European Structural and Investment Funds, i.e. were intended for the employees of the bodies involved in the management and the monitoring of the projects utilizing the Funds' resources. However, this type of training sessions should also be available to all of the civil servants involved in communication with the citizens on a daily basis, the provision of public services or the conducting of the procedures regulating the citizens' rights. In the absence of such training programs and with the aim of providing education for the civil servants on the scope of the prohibition of discrimination, in 2014 we suggested that the Ministry of Public Administration include the ADA among the legislative sources for taking the general part of the State Qualifying Exam.

Despite the fact that the number of complaints submitted to the Ombudswoman has risen over the years, the problem of underreporting remains.

The education of the civil servants, employees of the bodies of the regional and local self-government units, judges and members of the police force on suppression of discrimination needs to be stepped up. Namely, this type of content is currently not part of the regular education and training programs and the existing training sessions are not held continuously, not

even in the form of seminars, conferences, public forums, etc., but are instead organized through projects, as one-off activities and in a non-systematic manner.

In the efforts to further develop the anti-discrimination system the emphasis should be placed on educating the stakeholders responsible for the implementation of the ADA about the principles of non-discrimination. Taking into account the influence of the media when it comes to the formation of public opinions and attitudes as well as the frequency of discrimination in the areas of public informing and the media, media employers and employees need to be included in this type of training sessions as well.

The measures discussed above would certainly contribute to the alleviation of the problem of underreporting of experienced discrimination. Despite the fact that the number of complaints submitted to the Ombudswoman has risen over the years, this problem remains. The Ombudswoman has been warning about it for the past several years as have been the civil society organizations, which have identified factors such as the citizens' lack of awareness of what constitutes discrimination and what the available protection mechanism are, fear of victimization, concerns about the duration, costs and uncertainty of the outcomes of the judicial proceedings as the likely causes. It is hard to expect that the citizens would be willing to report the discrimination committed by the civil servants or the employees of the regional or local self-government units taking into account that the citizens "depend" on them in the process of the realization of their rights. Ultimately, unequal treatment is often widely socially accepted and is reinforced by the negative attitudes and the hostility directed at certain minorities, which makes the members of those minorities even more reluctant to seek protection from discrimination.

In line with what has been said above, along with the complaints submitted to the Ombudswoman, those filed to other competent bodies and NGOs as well as other sources, such as surveys on the perception of the incidence of discrimination and those on the experiences of discrimination, need to be taken into account as well when making estimates on the frequency of discrimination in the society.

Every third citizen of Croatia said that in the past 12 months they personally experienced discrimination or were harassed.

In one of the 2015 Eurobarometer surveys 21% of the respondents coming from all around the EU said that in the past 12 months they personally experienced discrimination or were harassed. At the same time, every third citizen of Croatia claimed the same, indicating that discrimination is more prevalent in our country in comparison with the EU level. In other words, many citizens feel discriminated against but still decide against reporting, which results in the lack of adequate sanctioning and the perpetuating of the discriminatory conduct.

Taking into account the various reasons that discourage the citizens from reporting discrimination, in 2014 the Office of the Ombudswoman started an anti-discrimination telephone line, enabling the citizens to file complaints but also providing the advice on the available protection mechanisms, which can facilitate their decisions on whether to bring the

case before a court or whether to file a complaint with a competent body. In the course of 2015 we received 167 citizens' calls.

RECOMMENDATIONS:

1. To the Office for Human Rights and Rights of National Minorities, to continuously carry out training sessions on the suppression of discrimination, as foreseen in the National Plan for the Protection and Promotion of Human Rights for the period 2013-2016;
2. To the Office for Human Rights and Rights of National Minorities, to carry out activities aimed at informing the citizens on the prohibition of discrimination and on possibilities and mechanisms for protection;
3. To the Ministry of Public Administration, to include the Anti-Discrimination Act among legislative sources for taking the general part of the State Qualifying Exam;
4. To the Office for Human Rights and Rights of National Minorities, to obtain as soon as possible the opinion of all members of the working group on the final draft of the National Plan for the Suppression of Discrimination and the accompanying Action Plan and conduct the public counselling with the interested public;
5. To the Government of the Republic of Croatia, to adopt as soon as possible the National Plan for the Suppression of Discrimination and the accompanying Action Plan;

3. INDIVIDUAL AREAS OF PROTECTION OF HUMAN RIGHTS AND COMBATING DISCRIMINATION

3.1. JUDICIARY

According to the EC report of 2015, the Republic of Croatia is in seventh place in the list of states with the longest-lasting civil proceedings, and the main problem, besides the long duration, is the inconsistency in the case law. Situations have been recorded of a lack of harmonization between decisions by court panels in the same courts in the same type of cases, and this conduct threatens legal certainty and contributes to the development of citizens' lack of confidence in the justice system. Therefore, it is important to strengthen the role of the higher courts as the creators of consistent case law, harmonized with international legal standards and the case law of the European Court of Human Rights (hereinafter: ECtHR) and the European Court of Justice.

The efficiency of the justice system is also one of the key problems of the Croatian legal system. In 2015, the implementation began of the territorial re-organization of judicial areas, so some court services, which operated in the areas of smaller towns or locations, were merged with courts in larger towns. In this way, the populations of some smaller towns and locations were placed in a difficult position, because their access to court involves great expenditure on travel, and for those in worse economic situations it is more difficult to protect their rights in court proceedings.

The strategy of judicial reform from 2013 to 2018, as a continuation of the previous reform, includes several guidelines which should speed up the resolution of cases and make the justice system more modern and functional. It is particularly important, as it continues to be implemented, to take into consideration the more socially at-risk categories of the population, for whom access to court, amongst other things, must be available and ensured through a stable framework of legal aid.

3.1.1. Complaints to the Ombudswoman

„I don't have to tell you how many cases are resolved by the EU Court of Human Rights... how much the justice system owes for municipal services, food, energy, etc., and where the RC and its justice system lie on the international scales of corruption, human rights, abuse and nepotism is a well known fact. My case is only one in a long series...“

In 2015, the Ombudswoman received 475 complaints in the area of the justice system. Of these, 239 related to the work of the courts, mostly due to dissatisfaction with court decisions (114), slightly fewer with the length of court proceedings (66), and then with the conduct of judges and abuse of their office (37), and least with the conduct of court administrative tasks (22).

In many complaints, there is evident citizens' distrust in the fairness, but also in the lawfulness, of decisions rendered, and therefore also in the judicial system itself and its efficiency as a whole. Dissatisfied with court decisions on the merits, they point to the unlawful conduct of judges, alleging that these were cases of favouritism or abuse of judicial office. We also received a complaint because a court was not able to execute enforcement on public authorities who refused to act on a final court decision, despite six conclusions ordering their action in enforcement proceedings. The courts, moreover, sometimes record personal data inaccurately,

From the complaints we received it seems that the State Attorney's Office does not communicate with citizens in a satisfactory manner. An example is a case in which no assessment of the basis of a criminal complaint has been made since 2008, and the parties received no reply to their petition since 2009.

which means that parties are unable to exercise their statutory rights, but are forced to undertake a large number of additional legal tasks, with additional cost, in order to correct the mistakes that have arisen.

In relation to the work of the State Attorney's Office, the Ombudswoman received only 32 complaints, whilst at the same time the Ministry of Justice received 203, which is a slight increase in comparison with previous years. However, there are no true figures on the number of complaints and petitions regarding the work of the State Attorney's Office, since this Office does not keep records. Moreover, from the complaints we received it seems that the State Attorney's Office does not communicate with citizens in a satisfactory manner; it does not reply to their petitions and does not give information about the status of a case, although it is the constitutional obligation of all public authorities. So, in a case of economic crime, in which

no assessment of the basis of a criminal complaint has been made since 2008, the parties received no reply since 2009 to their petition, despite many requests and rush notes, and not even following the recommendations of the Ombudswoman.

Although there is no statutory obligation for this, keeping figures on petitions and complaints for each state body, including the State Attorney's Office, could serve to achieve higher work quality, especially in communication with citizens, and to bolster trust.

The State Attorney's Office receives funding from the state budget for its work and representation of the state. However, evaluating, calculating and paying for the services of representation by the state attorney in civil contentious proceedings on the basis of the special power of attorney still takes place, just as for attorneys, despite our recommendation that a special tariff be adopted which should be lower than attorney services, precisely because of the simultaneous budget funding.

In relation to the work of attorneys, in 2015 we received 17 complaints pointing out problems with paying attorneys' fees, dissatisfaction with the representation given, conduct that violates the attorneys' code of ethics, and the work of the Croatian Bar Association (hereinafter: CBA), in which the suspicion was expressed of its unwillingness to sanction the violations that had been indicated. In addition, citizens expressed doubt concerning appropriate representation by attorneys through legal aid because the attorneys' tariffs were then much lower than the regular ones. At the same time, the CBA received 890 complaints regarding the work of attorneys, on the basis of which 709 disciplinary proceedings were instituted, due to the suspicion of a serious breach of duty and the reputation of the legal profession, and 58 judgments were rendered, establishing disciplinary responsibility for a serious breach of duty and the reputation of the legal profession.

Complaints aimed at the Ministry of Justice, as the highest body competent for performing tasks in judicial administration, mainly related to failure to respond to petitions, dissatisfaction with the reply to a petition, and the failure to conduct the promised inspection. At the same time, the Ministry of Justice received 1.070 new petitions or complaints about the work of the judicial bodies, and 1.362 submissions regarding cases pending, based on petitions received earlier. Only 0.90% of complaints were assessed to be well-founded, which brings into question the criteria for deciding on their foundation, especially when we take into consideration the number of problems recorded in the judicial system. The judicial inspection service of the Ministry of Justice undertook only two direct actions of supervision of the correctness and lawfulness of the work of court administration in 2015, in contrast to 2014, when there were eight, but none of these was conducted on the basis of a petition by the public.

In comparison with 2014, when, following a request for a trial within a reasonable time, 2.644 proceedings were instituted, in 2015 there were 108 fewer. Unfortunately, we do not have full figures on the amounts of compensation paid out in 2015 for violations of this right.

3.1.2. Legal aid

The legal aid system is aimed at achieving the principle of the rule of law - equality of all before the law and access to court for all citizens, regardless of their material status. Due to the difficult social situation and the high rate of poverty, many citizens are not able to hire an attorney and the inaccessibility and ineffectiveness of the legal aid system undermines the foundations of equality of citizens before the law and the right of access to court and to public authorities.

In 2015 the Ombudswoman received 605 more applications for the provision of legal aid in the form of legal counselling and drawing up legal documents than in the previous year. Although we regularly referred citizens to the persons they needed to contact for this form of assistance, and gave them general legal information, we are not authorized to provide legal aid.

Citizens with low social-economic status are able to request legal aid from state bodies and other authorized providers (legal clinics, associations, attorneys), but they were still insufficiently informed about the procedure for exercising this right. They are not acquainted with the fact that they can refer directly to authorized providers of primary legal aid, or with the requirements for exercising the right to representation by an attorney and exemption from the costs of court proceedings and court taxes.

The inaccessibility and ineffectiveness of the legal aid system undermines the foundations of equality of citizens before the law and the right of access to court and to public authorities.

According to the recommendations under the International Covenant on Civil and Political Rights, a stable financial framework is a pre-requisite for an effective legal aid system, which we also pointed out in last year's Report. The budget funding for its implementation in 2015 was only slightly higher than in 2014 (in 2014, HRK 2.661.000,00 was spent, and HRK 2.880.000,00 in 2015).

There are still obvious difficulties in the allocation of budget funding for primary legal aid, as well as in the amounts of funding allocated, which in comparison with 2014 rose from HRK 1.450.000,00 to HRK 1.500.000,00. The timeframe from the call for applications for the financing of projects of authorized associations and legal clinics until projects are selected and until funds are transferred is five to six months, which creates significant problems in their work, since in that period they need to reduce or completely halt their provision of aid.

Although the Legal Aid Act prescribes that primary legal aid may be financed from off-budget funds, associations registered for the provision of legal aid cannot apply for funds from other national donors. For example, the National Foundation for Civil Society Development, which expressly prohibits financing beneficiaries of budget funds in project tenders, whereby these associations are forced to depend exclusively on budget funding.

The institutional framework of the legal aid system consists of 20 state administrative offices in the counties and 15 branches, and the City General Administrative Office of the City of Zagreb. In 2015, the Government of the RC did not adopt any regulations on the alignment of the internal

organization of state administrative offices in the counties with the provisions of the legal aid, although it was obliged to do so by the end of March 2014. Although these are proceedings which must not be postponed, due to the insufficient number of officials employed on these tasks in state administrative offices, deciding on applications takes between 45 and 90 days, so preclusive time limits often expire for the parties, and the system loses its purpose. Further, whilst associations and legal clinics, when implementing projects, are obliged to keep records of beneficiaries and forms of primary legal aid provided, state administrative offices do not have that obligation, so these records are lacking.

In 2015, in six state administrative offices, not a single citizen applied for the provision of primary aid, probably due to the lack of information that these offices are authorized to provide advice and to draw up petitions. Despite the recommendations by the Ombudswoman regarding the need for greater accessibility of information on legal aid, citizens are still not sufficiently informed, so systematic information should be provided through the media, but also through the distribution of leaflets in police stations, courts and other authorities.

Due to the lack of alignment of the Act on Administrative Fees and the Legal Aid Act, for an appeal against a decision dismissing an application for secondary legal aid it is necessary to pay an administrative fee of HRK 50,00, which for a large number of citizens represents an obstacle in making use of this remedy.

In view of the fact that primary legal aid may be provided in various fields of law, it is necessary to conduct continual training of officials employed for these tasks in state administrative offices, to enable them to provide citizens with timely and professional legal aid.

3.1.3. *Support for victims and witnesses in criminal proceedings*

"...I was afraid of the accused, so moved away from Zagreb... I am the injured party in proceedings at Zagreb Municipal Court but I was not given the support I needed, and I did not know that the department for the provision of support to victims and witnesses even exists..."

Violations of the rights of victims and witnesses in criminal proceedings have been considered as part of complaints filed for the protection of human rights in the area of the judiciary. However, for the sake of understanding and for solidarity with persons who have experienced trauma caused by a criminal offence, and the importance of and need to intensify protection of their rights, this area is of special interest for the Ombudswoman. Additionally, we will write more about the position of victims in discrimination proceedings. Each year up to 70.000 criminal offences are reported in Croatia, and protection of the interests of victims is deemed to be one of the fundamental functions of the criminal justice system, recognized in a large number of documents of the United Nations, the Council of Europe and the EU.

In past years, by adopting the new Criminal Code, the Criminal Procedure Act, the Crime Victims' Compensation Act and the National Strategy for the Development of the System of Support to

Victims and Witnesses in the RC for the period from 2016 to 2020, positive changes have taken place in regulating the position of victims.

From complaints by citizens to the Ombudswoman, it is clear that the police, the State Attorney's Office and the courts still primarily focus on the accused and their rights, whilst not enough account is taken of the rights of victims and witnesses, and frequently they are treated inappropriately, with insufficient respect for the fact that testifying is an extremely unpleasant and disturbing experience, since they have to re-live a traumatic event, but also on account of their complete lack of preparation and lack of knowledge of the conditions of court proceedings. Violations of the rights of victims during criminal proceedings very rarely influence their outcome, but it is almost impossible for them to exercise some of their guaranteed rights.

In the same way, although after the conclusion of court proceedings, victims, like the accused, need to be rehabilitated into the community, once the judgment is rendered, institutions and society no longer have any dealings with them. The capacities of the existing system exceed the needs of victims and witnesses, they have a bad effect on general prevention and often discourage citizens from reporting criminal offences and testifying. Support systems for victims and witnesses are currently organized in only seven county courts, so it is necessary to extend these support departments to all the other county courts.

The national legislation is still not harmonized with Directive 2012/29/EU of the European Parliament and the Council of Europe of 2012 establishing minimum standards on the rights, support and protection of victims of crime, which should have been transposed into the national

Although after the conclusion of court proceedings, victims, like the accused, need to be rehabilitated into the community, once the judgment is rendered, the institutions and society no longer have any dealings with them.

legislation by November 2015. Amongst other things, it points out the right of a victim to dignity, participation in all stages of criminal proceedings, to compensation, effective forms of assistance, being informed from the time of their first contact with the authorities, access to support services, compulsory individual assessment in order to identify victims' specific protection needs, but also the necessary coordination of various services and training of staff who come into personal contact with victims. These needs were also indicated by the recommendations sent to the RC under the International Covenant on Civil and Political Rights, and from the UN's Universal

Periodic Review of the status of human rights (UPR).

Although in November 2014 the Police Directorate ordered police departments, to provide, alongside information on victims' rights, the contact details of the Department for Victim and Witness Support in the courts, the National Call Centre for Victims of Criminal Offences and Minor Offences, and information on the state administrative bodies and civil society organizations dealing with the support and protection of victims, this is not implemented consistently, so some victims are not given the necessary information.

The Crime Victims' Compensation Act, which has been in force since the country's entry into the EU, obliges the RC to pay victims of criminal offences compensation for the costs of healthcare,

funerals, compensation for lost earnings, and for loss of maintenance. However, the amount of compensation is limited, and the application of the act in practice is very restricted, as shown by the payment of only HRK 179.640,17 from the beginning of application of the Act up until October 2015.

The National Strategy of Development of a System of Support for Victims and Witnesses in the RC for 2016-2020, apart from an analysis and assessment of the situation, general goals and measures, does not contain deadlines for their implementation nor any analysis of the sustainability or assessment of the necessary resources. Some measures and how they are to be achieved, as well as the specific task of some of those responsible, should be described in more detail in the Action Plan for the field of development of support for victims and witnesses for 2016 to 2020, but this has not yet been done.

For the sake of increasing sensitivity to the needs of witnesses and victims, adequate training of judges, state attorneys and police officers is necessary, because, for the sake of the full integrity of criminal proceedings, and therefore also an effective justice system as a whole, a comprehensive system of support, which can meet the needs of victims and protect their fundamental rights, has to be ensured.

Effective respect for the rights of victims in the RC will still primarily depend on the effective application of legislation by criminal prosecution bodies and by the courts. It is left to the Government of the RC, other state institutions and civil society organizations, through combined work and cooperation, to create the most encouraging environment for creating public policies which will result in the adoption of high-quality and effective laws.

RECOMMENDATIONS:

6. To the Government of the RC, to adopt a special tariff for representation by state attorneys in civil proceedings;
7. To the State Attorney's Office of the Republic of Croatia, to organize records of petitions and complaints, and improve communication with citizens;
8. To the Ministry of Public Administration, to prepare legislation to harmonize the internal organization of state administrative offices in the counties with the provisions of the Legal Aid Act;
9. To the Ministry of Public Administration, to run systematic, specialized training for officials in state administrative offices who provide primary legal aid;
10. To the Government Office for Cooperation with NGOs and the National Foundation for Civil Society Development, to consider the possibility of establishing a fund to finance associations authorized to provide legal aid;
11. To the Ministry of Justice, to inform citizens continually about the system of legal aid, through the media and in other appropriate ways;
12. To the Ministry of Justice and the Ministry of Public Administration, to undertake alignment of regulations of exemption from payment of fees for socially at-risk groups of citizens;

13. To the Ministry of Justice, to harmonize the Criminal Procedure Act with Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime;
14. To the Ministry of Justice, by amending the Crime Victims' Compensation Act, to extend the requirements for the exercise of that right;
15. To the Ministry of Justice, to extend the system of support to victims and witnesses to all county courts;
16. To the Judicial Academy, to provide for regular workshops as part of the regular programme of training for judicial officials, dedicated to the rights of victims/witnesses and sensitization to their needs;
17. To the Ministry of the Interior, to provide training on the rights of victims/witnesses in the regular training programme for police officers, ways to proceed and forms of provision of support;
18. To the Commission for monitoring and improving the system of support for victims and witnesses, to draw up and propose to the Government of the RC the adoption of an Action Plan, which will precisely define individual measures, how they are to be achieved, the deadlines for implementation and an assessment of the financial resources needed to implement specific measures.

3.1.4. Judicial Cases Related to Discrimination

Pursuant to the Anti-discrimination Act, all judicial bodies are obliged to keep records of court cases related to discrimination and send them to the Ministry of Justice, which forwards them to the Ombudswoman. Although municipal and county courts do not publish their case law, and the courts still do not send to the Office of the Ombudswoman all decision in these cases, the Ombudswoman does have some relevant court decisions available from which it is possible to identify the basic challenges in the implementation of anti-discrimination regulations in 2015. Therefore, this Report too, alongside statistical data, also contains an analysis of case law.

According to the data from the Ministry of Justice, in comparison with the previous year, in 2015 the number of civil proceedings related to discrimination increased by as much as 67%, where the largest number of plaintiffs were seeking damages, and only after that do they request a finding of discrimination, its prohibition or removal. In 2015 the trend continued of a rising number of misdemeanour offences, whilst in contrast to the previous year, the number of criminal proceedings fell.

Civil Cases

In 2015, 219 civil cases on the grounds of discrimination were conducted, of which 126 were carried over from the previous period, whilst 93 were instituted in 2015. Only 73 cases, or 33%, were concluded with a final judgment, in which the claim was granted in only seven cases, in 16 it was dismissed on the merits and in as many as 50 (68%) it was resolved in another manner,

which is particularly worrying. So, although in 2015 the number of civil cases increased, the fewest were concluded by granting the claim.

In 2015, again not a single joint action was brought, which indicates the continuation of the fall in interest or the objective impossibility of action by NGOs and other organizations, which in earlier years actively protected the collective interests of individual at-risk groups of citizens in court proceedings.

Civil cases, as a rule, last more than 12 months, whereby the basic purpose of urgent proceedings is lost, because, for example, rendering a judgment to grant a claim five years after the discrimination itself does not fulfil the task of timely communication of the message to society of the prohibited conduct of the respondent.

However, despite the long duration of court proceedings, and the frequent exhaustion of remedies, the Supreme Court of the RC, in several decisions, gave valuable explanations of some vital elements of anti-discrimination proceedings, which are useful in the implementation of anti-discrimination law and for the education of participants in court proceedings.

As in earlier years, civil cases included a large number of labour disputes, instituted after the termination of employment or demotion at work. The most common motive of the plaintiff is not the discriminatory conduct of the employer, but the loss of employment rights, where proving discrimination serves to achieve the end goal - the return of employment rights or payment of damages for their loss. The unwillingness of employees to seek court protection earlier is primarily the result of fear of even worse treatment and the loss of employment, but also the uncertainty about the outcome, the duration of court disputes, and the lack of financial means to cover the costs of the proceedings.

Despite six years of the application of the Anti-discrimination Act, case law shows that some plaintiffs are still insufficiently familiar with the relevant provisions of the law. Frequently, claims do not include the ground of discrimination, plaintiffs do not prove even a qualified degree of probability of discrimination, and do not know the difference between discrimination and mobbing. Here, we also see the positive conduct of some courts, which, although the claim is not linked to an expressed legal ground, still set compensation for non-pecuniary damage, not for discrimination but for mobbing.

Although the number of civil cases related to discrimination has increased, claims are granted in only 9.6% of them, and over the year not a single joint action was brought.

The courts are still inconsistent in their application of the provisions on transferring the burden of proof to the respondent, which makes it considerably more difficult for plaintiffs to succeed in their suit. In the taking of evidence, the courts often assess whether the plaintiffs have requested protection of their rights before the employer's commission prior to instituting proceedings, whereby they overlook the lower position of the employee in relation to the employer, and the fear that this would only harm their employment status.

Case law so far shows that it is necessary to formulate clear criteria for the liability of the employer in cases of horizontal harassment at work. The lack of these criteria can easily lead to

the lack of standing of the respondent to be sued and the dismissal of the claim, regardless of the fact that the employee actually suffered discrimination at work.

It is especially problematic to prove the probability of discrimination on the basis of political belief, when the plaintiff is not a member of a political party, but in the work environment there is a perception of his tendency towards a specific political point of view. Here, some workers encounter these prejudices only because they were employed during the time of the previous political authorities, or the previous management, as a result of which they "bear the burden of the previous system".

There is an increasing number of court proceedings for discrimination because people are excluded from the work process, not given assignments, or they do work beneath their qualifications, which results in a violation of their personality rights, often accompanied by negative effects on their health. Some court interpretations do not help, stating that employees are not authorized to assess the purposefulness and need for performing a task, but are merely obliged to act upon orders.

Ultimately, when claims are granted for a violation of dignity, whether due to discrimination or mobbing, the amounts of compensation for non-pecuniary damage are still too low and their preventive effects regarding the employer are questionable, as is the effect on the moral satisfaction for the employee.

Criminal Cases

In 2015, the number of criminal proceedings related to discrimination declined. Only 12 were conducted, of which 10 were carried over from previous years. Unfortunately, this shows that some of the perpetrators of these criminal offences are still not being prosecuted, or that some are prosecuted for misdemeanour offences instead of criminal offences, that is, there is a lack of adequate sanctions or preventive effect.

By the end of the year, only three cases had been resolved. In one case, the conviction imposed community service as a sentence, the other was a conditional discharge, whilst one was resolved in another way.

Criminal offences related to discrimination are often linked with public discussions on current topics related to the rights of specific at-risk groups of citizens, which is often a motivation for the accused to publicly incite violence and hatred, or to engage in other forms of criminal behaviour. Social media are used as a means of committing criminal offences, whereby their harmful effects affect a larger number of citizens and have an impact on a larger number of victims. The perpetrators of criminal offences are often young people, which indicates the need for more intensive inclusion of educational institutions in preventive action, and vital continual education on discrimination.

Misdemeanour cases

In 2015, 208 misdemeanour proceedings related to discrimination were conducted, of which 83 were carried over from previous years, whilst 125 were instituted in 2015. A total of 81 cases were resolved, of which 47, that is as much as 58%, were concluded with a conviction. A high 61% or 127 cases remained unresolved at the end of the year.

There were no significant positive changes in relation to the situation from last year's report. The number of misdemeanour proceedings continues to rise, a large number of which relate to insults exchanged by neighbours or family members, where some expressions (the ground of

The way in which perpetrators are sanctioned brings into question the preventive purpose of punishing misdemeanours related to discrimination.

discrimination) are primarily used as an instrument of insult, and not to create a hostile or degrading environment. In smaller communities, harassment on the basis of nationality is more frequent, mainly aimed at members of the Serb, Albanian and Roma national minorities, where the last are also discriminated against in larger communities as well, whilst in larger towns discrimination is more frequently on the grounds of sexual orientation.

In 2015 we witnessed cases of discrimination using symbols and greetings which have had various meanings over the course of history, but today are mainly perceived in a negative context, linked to hate speech. In misdemeanour proceedings for harassment on the basis of the ADA, a position was taken regarding the importance of the actual intent of the accused when using certain symbols in public, in the specific case of a swastika. Regardless of various historical contexts in which that symbol was used, it is necessary to establish what it meant to the accused when committing the offence, and in what context it was used.

When it comes to sanctioning, the use of milder penalties continued as almost regular practice, due to the perpetrator's material circumstances, remorse or lack of previous convictions, but sometimes there is absolutely no explanation given for such decisions. On the other hand, persistence or particular aggressiveness in the commission of a misdemeanour offence is rarely assessed, nor the extreme fear experienced by the victim. The courts, when setting penalties, still almost exclusively deal with the accused, neglecting the victims and the consequences they suffer.

Fines imposed for harassment are from HRK 200,00 and mostly up to HRK 2.000,00. Here, the accused often does not pay the fine voluntarily, but it has to be collected by enforcement. In view of the fact that these are people with poor economic status, it is difficult to execute enforcement, but since most of the fines imposed are below HRK 2.000,00, they cannot be replaced by community service. In 2015, 27 persons were entered into the misdemeanour records following convictions for harassment, of whom one received a prison sentence, and one a conditional discharge, whilst of all the others only 12 paid their fines. Although the fines were not paid by more than 50% of the perpetrators, they were not replaced by community service in a single case.

This practice brings into question the purpose of the penalties imposed, and there is a lack of social rebuke for committing the offence, which certainly contributes to the trend of repetition of offences by the same people, and a continual increase in the number of new perpetrators.

A high percentage of the accused committed the offence in an inebriated state, but the courts very rarely impose the protective measure of treatment for alcoholism, even when the accused repeats the same offence in an inebriated state against the same injured party. In these cases, the purpose of punishment may only be realized by a combination of the misdemeanour provisions in the ADA, and measures prescribed by the Misdemeanour Act, but this is rarely applied.

Proceedings are particularly problematic where there is no effective protection of victims who are also witnesses-injured parties, and they are afraid of the accused. That is to say, in court the victims are regularly questioned in front of the accused, where they make statements about their nationality or some other characteristic, which was the basis for discrimination, and testify about the offence itself. Here, the accused most often knows the victim, and if they do not, they can find out all the victim's personal information from the court file, which places the victim in an extremely vulnerable position, and creates a basis for further violence. At the same time, it endangers the complete and correct establishment of the substantive truth, since victims, out of fear of the accused, very often change their original statements in court. In this way, not only is the purpose of anti-discrimination protection not achieved, but also the perpetrators are sent a message that the offence they committed may go unpunished.

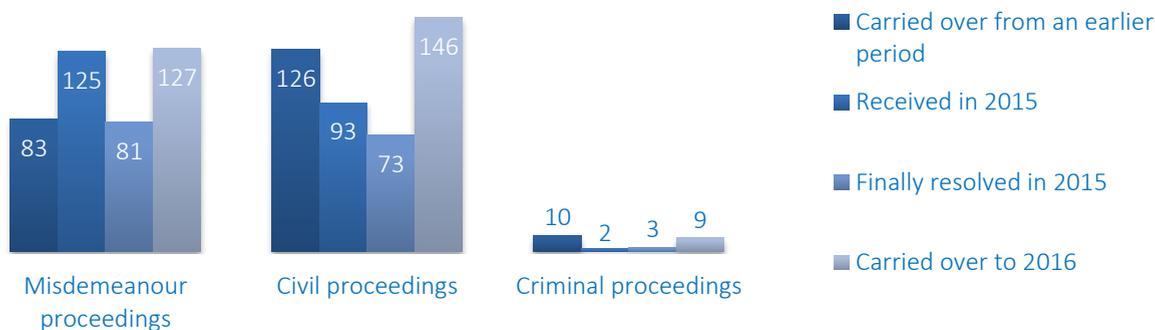
Administrative cases

As in previous years, the administrative courts, including the High Administrative Court, state that they did not have cases recorded related to discrimination, and only Rijeka Administrative Court reported judgments in which the plaintiffs, amongst other things, refer to discrimination.

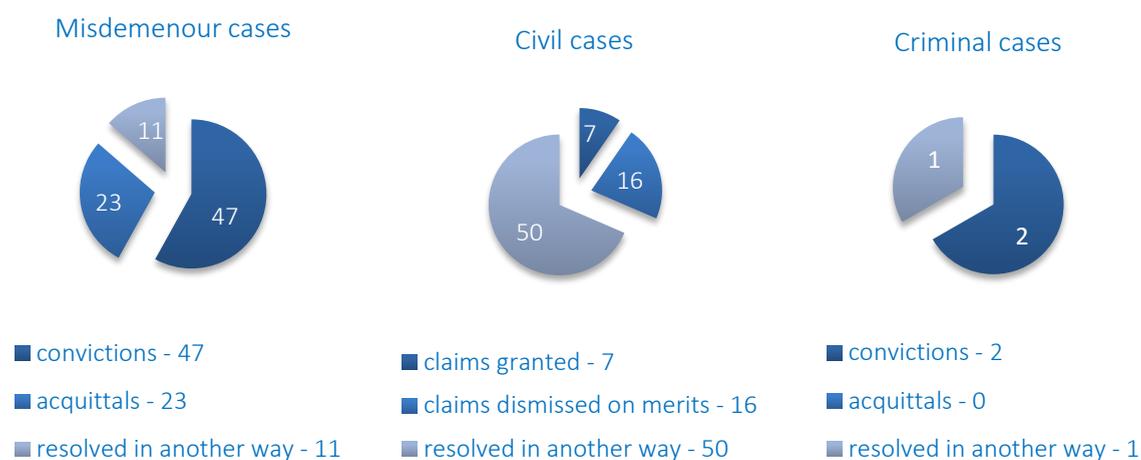
These judgments show positive changes, since the statements of reasons of the court decisions separately state the (lack of) foundation of the allegation of discrimination, as one of the reasons for the unlawfulness of the disputed administrative acts. Through the application of the provisions of the ADA, in administrative disputes, decisions on discrimination are no longer transferred exclusively to civil and labour courts, whereby the principle of economy and efficiency of court proceedings is respected. However, in these proceedings too, the need for the education of plaintiffs on the forms and types of discrimination that occur, and the requirements for establishing them, is noticed. Frequently, plaintiffs do not point out a single ground of discrimination as a reason for unequal treatment, and they only refer in general to discrimination, which indicates a lack of knowledge of anti-discrimination legislation.

Some of the education needed can certainly be conducted by clear and consistent explanations of court decisions on the reasons for the (lack of) foundation of allegations of discrimination, which is still not used sufficiently as a very practical, cheap and effective means.

The proportions of court proceedings related to discrimination carried over from an earlier period, received during 2015, concluded with a final decision during the year, and those carried over to 2016



The success of plaintiffs in court proceedings related to discrimination in 2015



In conclusion, from the analysis of case law and statistical data, there is a clear need to continue the education of all participants in court proceedings related to discrimination, whereby the requirements would be met for filing valid and clearly explained claims, and for rendering court decisions based on Croatian and European anti-discrimination law. It is also necessary to proceed more urgently in discrimination proceedings, primarily civil ones, which still as a rule last for more than a year, and often for several years.

RECOMMENDATIONS:

19. To the Judicial Academy, to provide for regular workshops as part of the regular training of judicial officials, dedicated to Croatian and European anti-discrimination law;
20. To the Judicial Academy, as part of its lifelong learning programme, for judicial officials to provide regular workshops on European and national anti-discrimination case law;
21. To the Croatian Bar Association, to provide training to attorneys on the application of Croatian and European anti-discrimination law;
22. To the Government Office for Cooperation with NGOs and the Office for Human Rights and the Rights of National Minorities, to continue to promote the work of NGOs with expertise and capacities for instituting joint actions for discrimination;

3.1.5. Hate crime

Hate crime is a criminal offence motivated by the race, colour, religious affiliation, national or ethnic origin, disability, gender, sexual orientation, or gender identity of the other person. This behaviour is an aggravating circumstance, except when in some offences more severe penalties are expressly prescribed.

Data on nationality/religious affiliation of the victim



According to data from the Office for the Protection of Human Rights and the Rights of National Minorities and the Ministry of Justice, over the year 47 cases of hate crime were in various stages of criminal proceedings, of which 31 related to events from 2015. In 12 cases, it was a matter of the criminal offence of threat, in ten public incitement to violence and hatred (hate speech)⁴, seven were cases of malicious mischief, two bodily injury, and one proceeding for the criminal offence of disturbing the peace of the deceased. Eight judgments were

rendered, and seven indictments were dismissed. The motive for committing the offence in most cases was hatred on a national basis, or religious affiliation, in 22 cases, then sexual orientation in five, for three incidents there are not data, and in one case it was a matter of hatred on the grounds of race or colour.

The figures from the competent bodies on the number of hate crimes in 2015, apart from the allegation that hostility towards Serbs is dominant, are in complete numerical disproportion to the figures from the review by the SNV (Srpsko narodno vijeće - the Serb National Council) "Violence and Hostility towards Serbs in 2015"⁵. On the basis of individual complaints and information from the media, it states as many as 189 different hate crimes recorded, including hate speech, about which more is written in the part on discrimination on the grounds of race, ethnicity or colour, and national origins. This numerical discrepancy speaks of the different perception and methodology of data collection, meaning that it is not possible to compare them, and it is not always easy to establish whether these are actually cases of criminal offences, or other forms of punishable behaviour motivated by hatred. However, figures from civil society organizations should in no way be overlooked, because some incidents are only reported to them, whilst, due to a lack of trust and fear of further victimization, they are not reported to the competent institutions.

Regardless of the source of figures, intolerance and hatred are noticeable towards members of the Serb national minority, manifested in threats, hate speech and destruction of property. This

⁴ This criminal offence is not a hate crime, but figures on it are collected within this methodology

⁵ In most EU states and wider, it is usually up to civil society organizations to collect data, but in Croatia these are only sporadic cases.

may be linked with social and political processes, and problems in the realization of the rights of national minorities in 2015.

The recognition of hatred as a motive for committing an offence is still insufficient, and difficulties also arise in the qualification of an offence by the prosecuting bodies. We write more on this in the part on freedom of public expression. There are also insufficient legal standards to clarify whether the motive for committing an offence is exclusively hatred, or whether prejudice is sufficient, and how to treat hatred when it is one of the motives for committing an offence.

The failure to recognize, prosecute, punish, but also publicly denounce hate crimes, or other punishable offences related to discrimination, contributes to a general atmosphere of intolerance and fear in citizens belonging to minorities, and may act as an incentive to new violence and even to retaliation.

3.2. THE RIGHTS OF NATIONAL MINORITIES

The equal use of the languages and scripts of members of national minorities

After the Government of the RC, in line with the obligations imposed by the Constitutional Court, proposed to the Croatian Parliament in June 2015 to adopt amendments to the legislation to regulate procedures in cases when the local authorities do not implement the obligations in the Act on the Use of the Languages and Scripts of National Minorities (hereinafter: AULSNM), the recommendation of the Ombudswoman was accepted that those amendments, pursuant to the Code of Consultation with the Interested Public in procedures for adopting laws, other regulations and acts, should be adopted in a regular and not in an urgent procedure, especially bearing in mind that they are amendments to legislation which may cause additional unrest and division in society.

Not long after, Vukovar Town Council introduced some individual rights by amendments to the statute, such as the right to use the Serbian language and script in proceedings within the competence of the town authorities, but it also prescribed that the extension of the scope of the right depended on the level of understanding in Vukovar. Since the Ministry of Public Administration deemed that the prescription of rights with a postponing condition was contrary to the spirit, sense and goal of the right of use of minority languages and scripts, it halted the application of some of the amendments to the statute, and proposed to the Government to file a request for a review of their conformity with the Constitution and law, so the disputes over the use of two languages in Vukovar continued.

Although a resolution of the long-lasting dispute could (only) be reached by an agreement with representatives of the Croatian majority and the Serb minority on Vukovar Town Council, with respect for the feelings and needs of everyone, the town authorities understood the fulfilment of the order by the Constitutional Court merely as a problem which the central government and the Constitutional Court had transferred to the local level.

The United Nations' Human Rights Committee reported the need for the full implementation of the use of minority languages and scripts, including the public use of the Cyrillic script in Vukovar. In order to achieve this, the structures at a national and local level only need to show democratic and political maturity. Resistance to the introduction of the Cyrillic script is not just a reflection of the failure to remove the consequences of the war, ranging from trauma to punishment of crimes and finding missing persons, but also the result of the failure to sensitize citizens to the need and purpose of minority rights. As a result, it is necessary to devote more effort to promoting awareness, both in education and in the media, of the value of minority languages, as an integral part of the cultural heritage of Croatia. This was also argued by the Committee of Ministers of the Council of Europe, saying it may contribute to tolerance and respect between different ethnic groups.

The need for the promotion of the use of minority languages and scripts, especially the de-stigmatization of the Serb language and Cyrillic script, is also shown by figures on the introduction/acceptance of minority languages and scripts in equal official use at local levels. Of 27 units where the introduction of a minority language and script into equal official use is compulsory, because members of a minority comprise more than one third of the population, only 10 of them have completely harmonized their statutes with the Constitutional Act on the Rights of National Minorities (hereinafter: CARNM) and AULSNM. The statutes of 13 units contain only general provisions on the right to equal official use of language and script, whilst four have not regulated the exercise of that right at all. So, in the Municipality of Plaška, where Serbs comprise almost half the population, it is explained that the statute is not aligned with these acts "to avoid unnecessarily raising tension between nationalities", whilst in some units with a majority Serb population, some provisions of the statute, for example on writing the names of the place and the geographical location, are not implemented, notwithstanding their conformity with the act.

It is necessary to devote more effort to promoting awareness both in education and in the media, of the value of minority languages, as an integral part of the cultural heritage of the RC.

In a further 26 units of local self-government, the minority language is in equal official use, although members of some national minorities make up less than one third of the population, but this is mainly the case of the introduction of the Italian language in municipalities and towns in Istria. The worrying degree of intolerance towards the language and script of the Serb national minority is indicated by the prescription of this right in only one unit in which Serbs make up less than one third of the population.

The number of units in which a minority constitutes more than one third of the population



The number of units in which a minority language and script is in equal use although the minority constitutes less than one third of the population



Members of national minorities, apart from Italians, only exceptionally use the possibility of conducting court proceedings in a minority language and script, which also indicates that it is necessary to work on promoting awareness and tolerance of the use of minority languages and scripts. In April 2015, the Committee of Ministers of the Council of Europe pointed this out in a series of recommendations in its monitoring of the application of the European Charter for Regional or Minority Languages.

The representation of members of national minorities in state administrative bodies, judicial bodies and administrative bodies of units of local and regional self-government

Although the proportion of members of national minorities in the total population of the RC is 7.67%, there are only 3.40% amongst employees in state administrative bodies and professional services and offices of the Government, and in comparison with figures from earlier years, their representation has fallen slightly. The goal of 5.5% representation given in the Plan of Reception of Members of National Minorities into the State Service in state administrative bodies for 2011 to 2014 has not been achieved, and no mid-term plan has been adopted.

Figures from the Office for Protection of Human Rights and the Rights of National Minorities and the Ministry of Public Administration on employees in state administrative bodies and professional services and offices of the Government of the RC

| Year | Total number of employees | Number of employees who are members of national minorities | Percentage |
|-------|---------------------------|--|------------|
| 2013. | 52.691 | 1.853 | 3,51 |
| 2014. | 50.478 | 1.762 | 3,49 |
| 2015. | 50.375 | 1.713 | 3,40 |

Members of national minorities are also underrepresented in judicial bodies, whilst as many as one quarter of units of local and regional self-government who are obliged to ensure their representation in their administrative bodies do not have even one member of national minorities amongst their employees.

The annual employment plans in the state service and priority in employment under equal conditions, which is guaranteed to members of national minorities by the Constitutional Act on the Rights of National Minorities, in a situation with restrictive employment policies, are clearly ineffective mechanisms to ensure the representation of members of national minorities, according to their share in the total population of the RC.

Access to the public media

It is the task of radio and television at state, regional and local levels to promote understanding of members of national minorities, the production and/or broadcasting of informative programmes in minority languages, programmes promoting and improving cultural and religious identity, the maintenance and protection of cultural property and traditions and through which information is given on the work and tasks of councils and representatives.

The National Minorities Council points out that public television still does not meet its obligation of broadcasting programmes in minority languages, refers to the unclear concept of minority programmes, the need for complementing the training of journalists who deal exclusively with minority issues, the lack of positive contributions on life together, sensationalism within the framework of daily politics and in minority topics, and the failure to broadcast events of importance for members of minorities and to mark important anniversaries. It also expresses dissatisfaction with changes to the time of broadcasting the programmes Prizma and Manjiski mozaik and the need for direct cooperation with the management of HRT.

In order to realize the right to information, members of national minorities, their councils, representatives and associations are able to work in the media: to publish newspapers, produce and broadcast radio or television programmes and work as a news agency. Whilst publication work is well developed amongst the associations of national minorities, of 145 providers of media services on the radio, only 10 are non-profit, but, of these, despite the interest present, not a single national minority or any civil society organization deals with minority topics.

In 2015 an association of members of the Serb national minority applied to us, dissatisfied with the decision of the Electronic Media Council (hereinafter: EMC) which did not grant them a concession for two local radio stations. The decisions were preceded by opposition from local Homeland War Veterans' associations to granting the concession to the association, that is, an announcement was expressed of possible unrest and protests if the concession was granted. After conducting an examination of the case, the Ombudsperson Ombudswoman did not find that the EMC discriminated against the minority association, but the petition by the veterans' association, issued due to the alleged fear that granting the radio concession could be used in an unacceptable manner, apart from having the aim of putting pressure on the EMC, was also an

incitement to discrimination on the grounds of different political convictions, also resulting from national affiliation. In cases of granting concessions, all stakeholders should restrain from putting pressure on members of the EMC, who, in the interests of transparency of the procedure and pursuant to the General Administrative Procedure Act, and so as not to create additional tension, should give a detailed explanation for their decisions, which was not done in this case.

Councils and representatives of national minorities in units of local and regional self-government

For the first time in history, in the border municipality Š, in Međimurje, elections were held for members of the Slovene national minority. The election commission had an easy task because of 66 persons with the right to vote, only one came to do it. That vote was for the AKN, the only candidate, who then, with 1.52 percent of the votes, became the Slovene representative. To clear up any doubt immediately – yes, that one vote was hers.

<http://www.vecernji.hr/hrvatska/da-izabrala-sam-sebe-1010234>

Minority councils are elected in towns and municipalities in which members of a national minority constitute at least 1.5% of the population, or in which an individual minority constitutes more than 200 members, whilst at the level of the county, the limit is 500. In units which do not have sufficient members of a minority to form a minority council, but where there are at least 100, minority representatives are elected.

The example in the introduction and the turnout of voters show the lack of interest of members of minorities in elections for minority self-government, but also the obstacles in the system which make it more difficult for them to exercise this right. In May 2015, 13.48% of them cast their vote, only a little more than in 2011 (11.23%) and in 2007 (10.55%). This was preceded, as earlier, by inadequate publicity, and the elections were held in too few polling stations. Voters travelled long distances to them, and some did not even know where their polling station was. Nevertheless, the recommendation has still not been implemented to regulate the elections of councils and representatives of national minorities by a special act, pursuant to Article 136 of the Act on Local Elections. The citizens awareness and the scope of information they have on minority elections and their participation in them could be greatly increased if they were held at the same time as local elections.

Councils and representatives of national minorities are still not perceived as an integral part of local and regional self-government and they do not exercise the rights and role prescribed for them by CARNM. Besides, some councils and representatives in previous convocations did not show any significant interest, they did not draw up annual plans of work, or file applications for financing from the budgets of units of self-government, and some did not submit appropriate reports. In order to achieve their full inclusion in public life and in the management of local affairs, it is still necessary to take measures to improve their effectiveness, and especially to continue holding training courses and seminars.

Minority elections were preceded by inadequate publicity, and the elections were held in too few polling stations. Some voters travelled long distances to them, and some did not know where they were.

Last year's recommendation was also not heeded/implemented, on the need to amend the Act on the Council Register, the Coordination of Councils and Representatives of National Minorities, whereby representatives of national minorities would be given the status of non-profit persons, from the day of registration in the Register, with the explanation by the Ministry of Public Administration that such status must be previously defined by CARNM. That is to say, whilst councils have the status of legal entities, and a Personal Identification Number (OIB), the decision on the registration of a representative in the Register contains the OIB of the representative as a natural person. This creates grounds for enforcing payment from the giro accounts of representatives as natural persons, regardless of whether this is a question of their personal resources, or those resources intended for national minorities.

The representation of members of national minorities in the Croatian Parliament

"...The Croatian people were discriminated against at the parliamentary elections held on 8 November 2015, where their votes were worth almost 4 times less than the votes of minorities. That is to say, minorities gained 8 representatives in Parliament, where for one Member of Parliament 4,500 valid ballot papers were needed, whilst the remaining 140 Members of Parliament were elected by members of Croatian nationality, where for 1 Member of Parliament an average of 15,225 valid ballot papers were necessary. "

At the elections for Members of the Croatian Parliament, held in December 2015, an appropriate representation was achieved of Members of Parliament from the ranks of members of national minorities, elected in a special electoral constituency. However, the model by which members of national minorities are allowed to have a previously defined number of Members of Parliament, regardless of the number of votes received, is frequently criticized by the Croatian public. Especially at the time of elections, and in constituting the government, opinions are expressed on the need to reduce or even abolish the guaranteed seats, and there is a dispute about the right of the holders of such seats to decide on all issue just like other Members of

Parliament. In this way citizens are sent the message that the mandate of minority representatives is not valued like other mandates, which is unacceptable.

The fact is that (some) candidates in the separate minority constituency are elected with very many fewer votes than candidates elected in other constituencies, but the legislation by which 7.67% of citizens of Croatia, which is the proportion of citizens who have declared themselves members of national minorities, have the possibility of electing 5.3% of Members of Parliament, is appropriate and necessary to achieve a legitimate aim, which is their adequate representation in the Croatian Parliament.

Making it possible for members of national minorities to have a guaranteed number of Members of Parliament should not be deemed to be an act of discrimination against members of the majority nationality, as stated in the accusation cited above, but the achievement of national equality – one of the highest values of the constitutional order of the RC.

The smaller number of votes on the basis of which Members of Parliament representing the minority are elected largely stems from the decision of most members of minorities to vote for the general lists, but GONG points out that individual, uneducated electoral committees also pose a problem, as they do not inform members of national minorities of the possibility of choosing the list for which they will cast their vote, as well as the fact that stating in front of all those present in the polling station which list they wish to vote for can place them in a very uncomfortable position in some places, and it also threatens the secrecy of the ballot.

In conclusion, in view of the fact that political parties without any indication of a national minority in their title mainly do not articulate the needs of the minorities, that still in many areas problems exist in the exercise of their guaranteed rights, and also that there is an increased number of cases of hate speech, physical violence and damage to memorials and religious structures, especially of the Serb minority, which was pointed out in the joint letter to the Ministry of Foreign Affairs by the UN's Special Rapporteur on freedom of religion or belief, the Special Rapporteur on minority issues, and the Special Rapporteur on contemporary forms of racial discrimination, xenophobia and related intolerance, it is necessary to work to promote minority rights and tolerance, and especially to refrain from any restrictions of minority rights.

RECOMMENDATIONS:

23. To the Croatian Parliament, to ensure, through amendments to the Act on the Official Use of the Language and Scripts of National Minorities, the exercise of the right to the official and public use of a minority language and script in cases where units of local self-government are not meeting their obligations under the Act;
24. To the Ministry of Science, Education and Sports, and the Ministry of Culture, to work harder to promote awareness and tolerance of minority languages, including Serbian and the Cyrillic script, as an integral part of the cultural heritage of Croatia;
25. To the Ministry of Public Administration and the Ministry of Justice, to create measures to ensure the appropriate representation of members of national minorities in state

administrative bodies, judicial bodies and administrative bodies of units of local and regional self-government;

26. To HRT, to increase the proportion of programmes in minority languages and to produce programmes on the value of the languages and scripts of national minorities;
27. To the Ministry of Public Administration, to draw up proposals for amendments to the Constitutional Act on the Rights of National Minorities, and the Act on the Register of Councils, Coordination of Councils and Representatives of National Minorities, to give representatives of national minorities the status of non-profit entities, from the day of their registration in the Register;
28. To the Ministry of Public Administration, to found a working group to draw up a special act on elections for minority self-government, pursuant to Article 136 of the Act on Local Elections;
29. To the Office for Human Rights and the Rights of National Minorities, to conduct training of council members and representatives of national minorities in order to strengthen their advisory capacities, so they can take on the role of equal partners with local authorities and other institutions in all questions of minority policies;

3.3. DISCRIMINATION ON THE GROUNDS OF RACE, ETHNICITY OR COLOUR, AND NATIONALITY

In almost one in four complaints of discrimination received in 2015, the grounds of discrimination are given as race, ethnicity or colour, and national origin. Since in the RC members of the Serb and Roma national minority and applicants of international protection, illegal immigrants and persons with approved international protection are mostly exposed to unequal treatment due to their race, ethnicity or colour, or national origin, special care was given to protecting the right to equality of members of precisely these groups.

The Serb National Minority

The difficulties encountered by Serbs in the RC are also shown by a review of cases of ethnically motivated violence, threats and hate speech against Serbs in Croatia in 2015, which, as in the previous two years, was published by the Serb National Council. It records 189 such cases, which is a significant growth in comparison with the previous year, when 82 were recorded. However, this may also be explained by the new methodology of monitoring incidents, because, in contrast to previous reviews, greater attention was paid to media coverage when data was collected for 2015. Still, the trend is certainly worrying, especially because a rise was also recorded in cases of threats and physical violence against Serbs.

Physical violence is still present in areas of special state concern, that is, in the areas affected by the war, where the largest number of Serb returnees live. In this regard, in 2015 several complaints were received related to the inappropriate conduct of the police towards members of the Serb national minority, in which precisely their national origin was pointed out as the

reason for the inappropriate conduct or the lack of timely action. Although we did not establish that any discrimination occurred, in these circumstances it is necessary to be especially careful of the ethnic aspects of these incidents and the victims. Unfortunately, we do not have any information about how the recommendation to the Ministry of the Interior and to the State Attorney's Office from the Report for 2014 is being implemented. This recommendation was to intensify activities at a local and regional level in cases related to ethnic intolerance.

The anti-minority atmosphere also prompted Members of Parliament representing national minorities in the Croatian Parliament and representatives in the National Minorities Council in May to publish a Declaration on Intolerance and Ethnocentrism in Croatia, in which, amongst other things, it states that members of national minorities in the RC are again faced with an escalation of ethnocentrism and intolerance. The Declaration opposed discrimination of all those who are different from the majority in terms of their characteristics, including national, religious, racial, gender and age characteristics, and their orientation in terms of politics and ideas.

Difficulties related to exercising the rights of returnees, almost totally Serbs, and others who reside or who wish to reside in areas of special state concern, are dealt with in more detail in the

In Croatia there are about 700.000 hectares of fallow agricultural land, of which half is owned by Serbs who left the country, who are not able to cultivate it, although they are obliged to do so and are therefore subject to sanctions.

chapter on reconstruction and the provision of housing, but also in the chapter on municipal services. Areas of special state concern are less developed and therefore are subject to special measures to encourage their development, whilst demographic indicators, especially of the returnee population, indicate the sparseness and the advanced age of the population. These areas are mostly inhabited by Serb returnees, and they comprise almost half the total area of the RC. Here, more than 65% of land in the areas of special state concern is agricultural. According to estimates by the SNC, there are about 700.000 hectares of fallow agricultural land in Croatia, of which half is owned by Serbs who

left the country, who are not able to cultivate it, although they are obliged to do so and are therefore subject to sanctions. In resolving this problem, it is important to take into account the objective facts of the (non) residence of the owners in the RC, that is, the difficulties related to return, the provision of housing in an area of special state concern, or the reconstruction of houses damaged in the war. Although land owners should meet their obligations, at the same time the competent institutions, at least in the areas of special state concern, should bear in mind social sustainability and sensitivity, and the difficulties that often stand in the way of returnee-owners of agricultural land.

The Roma National Minority

In 2015 particular attention was paid to the conditions of housing and the life of Roma, and with representatives of the Office for the Protection of Human Rights and the Rights of National Minorities, we visited about 20 Roma villages in the counties of Brod-Posavina, Osijek-Baranja, Sisak-Moslavina and Varaždin.

Most of these villages are isolated, that is, ghettoized Roma villages, which contributes to their social distance from the non-Roma population. Roma who live in "mixed" villages are better integrated into the whole life of the wider community than those in separate, exclusively Roma villages. When drawing up future physical development plans, plans should be made for villages to be built for socially at-risk families/persons in general, and to avoid building physically isolated, exclusively Roma communities. For example, in Delnice over the past few years, a Roma village was moved from one isolated location to another, still separated from the other inhabitants, and thereby an opportunity was missed for the physical integration of Roma families, whereby their social integration in general would have been encouraged.

In some villages, visible improvements have been achieved over the past few years in the development of infrastructure – mainly the construction or paving of roads and the construction of water mains and street lighting. However, in places where a municipal infrastructure network exists, the possibility of (legal) connections depends on the legal status of the housing, but also on the capacity to pay for the costs of connections. The situation varies amongst Roma communities regarding their property law relations, that is, the right of ownership of housing, the possibility to legalize their homes, and therefore also to connect them to the infrastructure, if one exists of course.

In some villages, the houses do not meet any building standards and/or minimal standards for housing; there are no roads or paths, or water or sewer networks, apart from a shared pump, which supplies water for all the inhabitants, for example "U rupi" in Beli Manistir and Sv. Đurđ in Varaždin County. On the other hand in "Barake" in Darda, municipal infrastructure has been constructed and (some) building permits obtained to build new housing to replace the existing dilapidated and inadequate homes. In integrated settlements, municipal infrastructure has been built, so it is (perhaps) necessary to resolve the property law relations for some buildings, and legalize and/or replace some of them that are inadequate with new ones.

Resolution of the many problems largely depends on the (greater) activity of the local and regional authorities and their coordination with the central bodies, and it is up to units of local self-government to create the necessary physical planning conditions for the legalization of illegally built structures and the organization and equipping of the locations where Roma villages are situated.

Apart from the housing conditions, the inhabitants of these villages also face many other problems, such as (not) exercising rights within the social welfare system, and status rights. Roma who are foreigners with approved temporary or permanent residence, and even those who have Croatian citizenship, are also affected by problems in obtaining health care, since they are simply unable to meet the monthly sum they are obliged to pay for compulsory health care of HRK 400.00 per person.

Apart from Roma with the legal status of foreigners, although these are often people who were born in Croatia and who have never left it, but have never before regulated their status, there

are also "invisible Roma" who were born in the territory of the RC, but at home, and have never been registered with the competent registry office.

The procedure for their subsequent registration is very complex because they do not possess any medical records of their birth. This is a particularly complex question when the parents are no longer alive to confirm birth, and the competent body does not deem witness statements to be relevant, but requires expensive DNA analysis. The costs of this procedure are not paid by the competent ministry, but by the parties themselves, who are usually Roma in extremely difficult living situations, and who are not able to do so, so they remain "legally invisible", that is, they have unclear legal status.

The procedure for subsequent registration of invisible Roma is very complex and also extremely expensive, because they do not possess any medical records of their birth.

This brings with it many unfavourable consequences, from the inability to exercise rights in the social welfare system, to the impossibility of finding employment. Therefore, it is necessary to find alternative means of establishing the identity of legally "invisible" persons, or to provide means to conduct DNA analyses. Roma as a community are also exposed to the unfavourable effects of the application of legislation on social welfare. The participation of children of the Roma national minority in pre-school and school education is hindered as a result of various social and economic obstacles, including difficult access to public transport from remote Roma villages.

The Social Welfare Act, which prevents beneficiaries of the guaranteed minimum benefit from having or using another person's vehicle, makes the position of the most at-risk, impoverished groups of the population significantly more difficult, especially families with several children, which is a significant characteristic of Roma families, and it also produces a possible discriminatory effect, to which we drew the attention of the Ministry of Social Welfare and Youth. In 2015 police officers stopped Roma drivers in the counties of Međimurje, Sisak-Moslavina and Osijek-Baranja and sent information about this to the competent social welfare centres, which then revoked their social welfare benefits due to possession of a vehicle, often leaving entire families without any income.

The lack of connection and the diffuseness of measures of social inclusion of Roma are also visible in the results of the alternative monitoring of the implementation of the national strategy for the inclusion of Roma, which show the problem of the completion of elementary education, because a large number of Roma children leave elementary school, whilst segregated classes still exist in schools close to Roma villages, and they are attended by a large number of Roma children. The alternative monitoring shows that programmes of public works were those most implemented, whilst other measures to encourage employment or self-employment of members of the Roma community were implemented to a lesser extent. For example, the measure of co-financing the employment of Roma, prescribed for the area of five counties, was not used at all in Brod-Posavina County, whilst in other counties between one and three persons were employed. The right to partial coverage of costs of self-employment was used by 18 Roma in the whole of the RC.

Measures for the integration of Roma are implemented by institutions independently and on their own initiative, and bodies at the same or different levels of government are often not aware of the activities being implemented. The inclusion of local and regional authorities in the implementation of the National Strategy remained uneven and at a low level. A possible partial reason for this lies in the lack of an effective and feasible system of collecting data on the implementation of measures and the effects of the National Strategy, especially at the level of separate goals. Therefore, it is necessary in future action plans to include indicators with the initial values, which will make it possible to monitor the application of measures, and not only their final results. It is also necessary to task the competent bodies to monitor the relevant indicators continuously and ensure appropriate accessibility.

Applicants for international protection, irregular migrants, and persons who have been granted international protection

Integration is a dynamic, two-way, long-term, multi-dimensional cooperation of society in the acceptance of newly arrived members, who have requirements on society and individuals.

For immigrants, integration requires a readiness to adjust to the lifestyle of society, but without losing one's own cultural identity. On the other hand, society is required to accept its newly arrived members as part of the community, and to take measures to facilitate their access to resources and decision-making processes. Integration relates both to the requirements for real participation in all aspects of the economic, social, cultural, civil and political life of the country they are coming to, and also to the new members' perception of acceptance and belonging to that society. According to the social progress index of the RC in 2015, Croatia is achieving good results, for example in the field of meeting fundamental human needs (food, primary health care) and in the field of elementary education, but in the field of tolerance and social inclusion of migrants there is the most room for improvement. The results of the MIPEx research for 2015 show that the RC is a country to which less than 1% of migrants come from outside the EU, which is linked with the economic crisis and the high level of unemployment, meaning that the RC is simply not an attractive destination.

However, the experiences of people who have come to the RC from countries outside the EU, for example people under international protection, show that the existing measures and integration strategies have serious failings: there are no special Croatian language courses for job seekers, nor training for various occupations or scholarships, children who are included in the education system only have support for learning Croatian, but not other subjects, and support is particularly lacking in learning about cultural and social differences. They have problems with access to health care because of linguistic and administrative obstacles, and they are not able to vote in elections, or take part in governing bodies, even at the level of consultation.

When we talk about migrants today, we are mainly thinking about the people who passed through Croatia as refugees from September 2015, and we report in more detail about this in

the chapter on the refugee crisis. There are innumerable encouraging examples of the humane attitude and solidarity, human sympathy and spontaneous assistance given by citizens of the RC to refugees, who differ greatly from the majority in terms of colour, ethnicity, religion and language.

However, although only a few of them decided to remain in the RC, which we will talk about more in the chapter on the refugee crisis, today in the RC, 177 persons are exercising the right to international protection, of whom 90 are actually present and residing here and are in the process of integrating into our society, but only 13 of them are employed. Although this is a very small number, it is important to bear in mind that these facts may change at any time, for which we need to be prepared, so that we would truly be a society of acceptance and permanent integration.

Integration is a dynamic, two-way, long-term, multi-dimensional cooperation of society in the acceptance of newly arrived members, who have requirements on society and individuals.

Here, institutions and civil society have an important role in pointing out and implementing activities, campaigns and training to promote integration. Moreover, the fact that migration policies adopted for the period from 2013 to 2015 have not been supplemented with new policies for the coming period raises many questions about the direction the RC will choose in the future, especially since migration policies so far have mainly focused on questions of protection of the borders and territory, strengthening the visa regime, etc. There has been insufficient thought given to global movements and an adequate response to migration trends, both in terms of policy and at the level of the economic effect, that is, the creation of economic policies. The RC does not even have any integration policies, indicating a lack of vision and the absence of a pro-active approach, which may have very negative consequences, both for society in general and for migrants coming to the RC.

Although rare, racist attacks do occur in the RC, including physical injuries, where the main motivation of the attackers is exclusively the colour of the people they are attacking. The incident at the beginning of December 2015, when two people attacked and brutally insulted a dark-skinned man from Cameroon in front of a restaurant on the motorway, injuring him with a knife and throwing various objects at him, certainly arouses concern, although the police very quickly arrested the attackers and instituted misdemeanour and criminal proceedings. Although his life was saved by passengers who pushed him into a bus and protected him until the police arrived (who acted appropriately and correctly), another case in which we took action in 2015 indicates the insufficient awareness, or training, of police officers in conduct with persons of a different colour.

This relates to a complaint by a citizen of Nigeria, who, with his dark-skinned friends, was standing in a public place, indicates that a well-founded suspicion exists that police officers asked to see their personal documents exclusively because of their colour, that is, the police had no other reason to do so. Since in the area of the police station in question there is a reception centre for asylum seekers, which has a curfew of 10 pm for reporting back, the police officers assumed that they were asylum seekers, but they did not demonstrate the necessary

level of professionalism or restraint. To avoid such situations, the Ministry of the Interior and the competent police directorate accepted our recommendation on the need for additional training for police officers to combat discrimination.

RECOMMENDATIONS:

30. To the Ministry of the Interior and the State Attorney Office, to intensify proceedings at local and regional levels in cases related to ethnic intolerance and to pay particular attention to victims;
31. To units of local self-government, when drawing up future physical development plans, to keep in mind building villages aimed at socially at-risk families/persons in general, and avoid promoting the building of physically isolated, exclusively Roma settlements;
32. To units of local self-government, to create the necessary physical planning requirements for the legalization of unlawfully built structures, and the organization and equipping of areas where Roma villages are located;
33. To the Ministry of Social Policy and Youth, to find alternative ways of establishing the identity of legally "invisible" persons, or to provide funding for DNA analyses in order to establish their identity;
34. To the Ministry of Social Policy and Youth, to consider and, if necessary, to amend potentially discriminatory provisions of the Social Welfare Act, which prevent beneficiaries of the social welfare system from possessing or using someone else's vehicle;
35. To the Offices for the Protection of Human Rights and the Rights of National Minorities, to align in terms of time and content the activities of those responsible for the measures prescribed by the National Strategy for the Inclusion of Roma, at a national, local and regional level, that is, to provide for the most effective implementation of the defined measures and simpler monitoring and reporting;
36. To the Ministry of the Interior and the Office for the Protection of Human Rights and the Rights of National Minorities, when creating migration and integration policies, to pay greater attention to the economic, social and cultural effects of migration trends, that is, to pay attention to the findings of the MIPEX 2015 results for the RC.

3.4. RECONSTRUCTION AND PROVISION OF HOUSING

"I have mentioned many things here, but what I can say briefly, and I hope you will understand me, is that I feel as though I am in some kind of war camp. I have been provided with housing in that I have been given an apartment with completely unknown people, with whom I have to share a bathroom and toilet, and from whom I suffer constant provocation, but I cannot report them to anyone, because what they are doing is not a criminal offence."

Housing provision in 2015

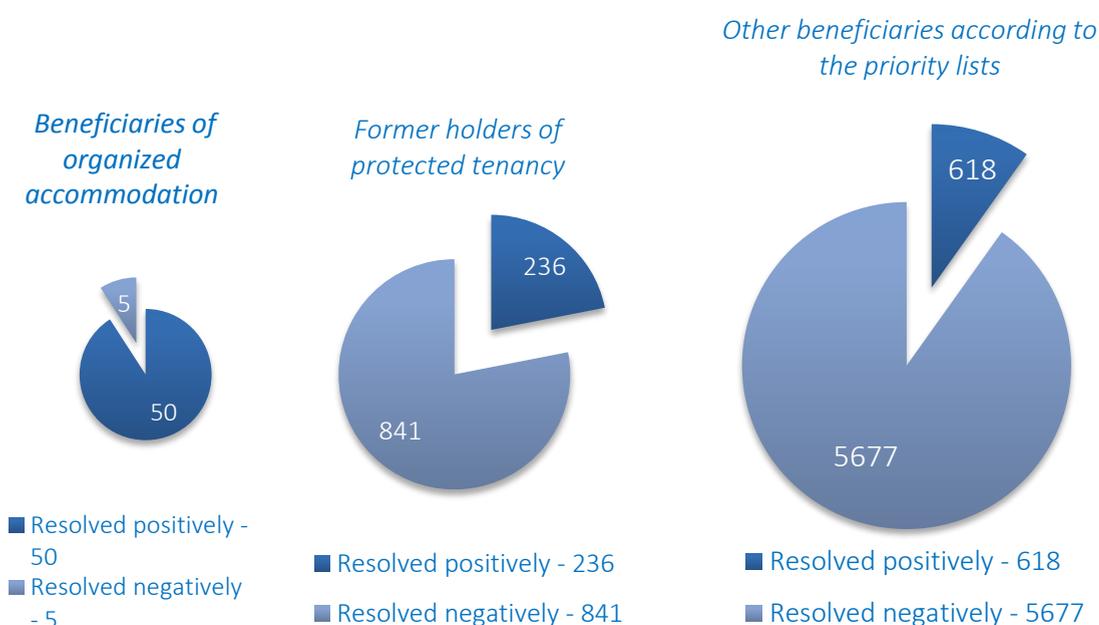
According to the figures from the State Office for Reconstruction and Housing Care (hereinafter: SORHC), the total number of applications for the provision of housing pursuant to the Act on Areas of Special State Concern (OG nos. 86/08, 57/11, 51A/13, 148/13, 76/14, 147/14 and 18/15; hereinafter: AASSC) was 10.560, of which 4.375 related to former holders of protected tenancy, 61 to beneficiaries of organized accommodation, and 6.124 to other beneficiaries, who received housing according to the list of priorities for the current year. In comparison with the previous year, the number of applications fell by 1.266.

According to the priority lists, it was planned to render 883 decisions establishing the right to the provision of housing, but 618 were rendered, so 70% of the plan was completed, whilst the remaining 265 were carried over to 2016, since decisions for 2015 may also be rendered in the calendar year 2016, until the list is final. A total of 5.677 cases were resolved negatively, because the applicants did not supplement their applications with the requested documentation.

In relation to the provision of housing for former holders of protected tenancy, in 2015, 236 positive and 841 negative decisions were rendered, whilst 3.298 cases still remain to be resolved.

These figures show that in both categories there is a very high proportion of negative decisions, as many as 92% of beneficiaries provided with housing from the priority lists and 78% former holders of protected tenancy. The situation is only different in relation to beneficiaries of organized accommodation, which is the smallest group. For these, 50 positive and five negative decisions were rendered, whilst six cases still remain to be resolved. Over all, of the 10,560 applications for housing in 2015, only 904, or 8.56%, were resolved positively.

The proportion of positive to negative decisions on applications for housing, by categories of beneficiaries in 2015



A comparison of the total number of housing provision cases through the priority lists (6.124) and the number of housing units provided and funding planned in the state budget for the provision of housing shows the disparity between the needs of beneficiaries and the capacity of the state to provide the necessary financial resources and housing.

Since this problem has been repeated over many years, in the report for 2014 we recommended that SORHC should provide additional funding or housing units for beneficiaries whose applications had been positively resolved, and for all other beneficiaries of the provision of housing included in the priority lists and annual plans for the provision of housing. Despite this, additional resources have still not been provided.

The right to the provision of housing apart from the priority lists is possible in exceptional circumstances, with the written recommendation of the competent centre for social welfare, or the head of the municipality or mayor, and upon a motion by the Commission founded for that purpose. Of 355 cases received in 2015 for the urgent provision of housing, the Commission resolved 157, of which 38 positively - 19 by leasing a family house or apartment under state ownership, and the remaining 19 through the allocation of building materials. The reason for the large number of unresolved cases is the lack of available housing units, and also the fact that applicants, once they see that they will not be provided with housing from the priority list, immediately file an application for the urgent provision of housing, which is not surprising, in view of the time needed and the small proportion of positively resolved applications.

"... In relation to my complaint about the provision of housing, I am writing to inform you that the delivery has begun of building materials to build a family house. I thank you sincerely for your work and everything you did related to our problem."

In 2015, SORHC delivered building materials for the construction of 289 houses for beneficiaries for whom design project documentation for building a house had already been drawn up, who had obtained a building permit, and with whom an agreement had been concluded on granting building materials.

Problems in exercising the right to the provision of housing

Many proceedings take several years, some even more than ten, which we have already reported. The long duration relates not only to first-instance proceedings, but also to rendering decisions on appeals, and on rendering new decisions after the appeals have been granted. This is certainly also the result of the failure to submit cases for the competent procedure to the first-instance bodies.

The frequent amendments to the AASSC also do not contribute to speeding up these proceedings, and they are a ground for legal uncertainty for the parties. Despite the



recommendations from the Report for 2014, no consolidated text of the AASSC has yet been drawn up.

The Ordinance on the Terms and Manner of Exercising the Right to the Allocation of Building Materials Outside Areas of Special State Concern, and the Ordinance on Construction and Standards for Repair, Reconstruction and Construction of Family Houses through the Allocation of Building Materials and Apartment Buildings in Areas of Special State Concern are not harmonized with the amendments and supplements to the AASSC, so the first-instance bodies are not able to render lawful decisions.

The short deadline of 45 days for filing applications for the recognition of the right to the provision of housing causes problems for applicants since they must be submitted to the competent first-instance bodies, with all the accompanying documentation, in the period between 1 January and 15 February. That time limit should certainly be extended by amendments to the provisions of the AASSC.

In proceedings for the provision of housing, the former holders of protected tenancy face a problem in the failure to separate applications for areas of special state concern from other areas. In other words, housing outside areas of special state concern are less accessible and more expensive, so former holders of protected tenancy find it much more difficult to exercise their right to the provision of housing.

Housing outside areas of special state concern is less accessible and more expensive, so former holders of protected tenancy find it much more difficult to exercise their right to the provision of housing than those in areas of special state concern.

Although the annual plan of standardising activities foresaw in the second quarter of 2015 the adoption of a new Act on the Provision of Housing aimed at resolving the problem of the provision of housing in a comprehensive manner for the entire territory of the RC, unfortunately its adoption has been stalled.

The recommendation has still not been implemented to equalize the legal framework, whereby that fact is taken into consideration for former holders of protected tenancy, as was the case at the time when apartments were being bought off by citizens of mainly Croatian nationality. Although the new Ordinance on establishing the status of former holders of protected tenancy and members of their families and the terms and procedure of the provision of housing for them is more precise than before, and it does not define a deadline within which an application may be filed for the provision of housing, evaluation of the status of a former holder of protected tenancy is not covered by this Ordinance which should therefore be covered in a future Act on the Provision of Housing.

This is especially true because even the foundation of a working group to draw up amendments to the Decision on the sale of apartments under the ownership of the RC, which proposed a solution on the basis of our recommendation, has not resulted in more favourable terms of sale.



Citizens still do not receive monetary benefits for accommodation under their own arrangements until provided with housing pursuant to the Conclusion by the Government of the RC of 2008, since their applications have not been resolved, and even if they have, the benefits are still not being paid.

Citizens are still not receiving monetary benefits for accommodation under their own arrangements until provided with housing, pursuant to the Conclusion by the Government of the RC of 2008, since their applications have not been resolved, and even if they have, the benefits are still not being paid. Although in several cases the SORHC stated that the Conclusion was faulty and that in a large number of cases no decision was ever rendered because funding was not provided, this situation is unacceptable. It is necessary to resolve the existing applications, that is, it is necessary to act on the decisions rendered. At the same time, since an analysis of the exercise of the right to funding pursuant to this Act is under way, and according to the results, a proposal of a new decision by the Government of the RC will be prepared, it is necessary to conduct this process as urgently as possible, in order to remove the uncertainty and inequality already mentioned.

The AASSC still puts settlers in the urban areas of Benkovac, Drniš, Glina, Gospić, Hrvatska Kostajnica, Knin, Karin Gornji, Lipik, Novska, Obrovac, Otočac, Pakrac, Petrinja and Slunj in an unequal position in comparison with settlers in mainly rural areas. In urban areas, real estate with which people are provided under housing care cannot be granted to them under ownership, but can only be rented or bought, in contrast to real estate in rural areas. These provisions have still not been removed from the AASSC, and the association that draws together the settlers of the town of Glina in June 2015 filed a request with the Constitutional Court for a review of conformity with the Constitution, also referring to the opinion of the Ombudswoman.

In 2014, protected tenants were not sent payment slips for the costs of lease, but the data for payment were merely published on the SORHC website. Since those involved are mainly elderly people, who mostly do not use computers, the data were inaccessible to them. Implementing our recommendation, the SORHC sent them payment slips by registered mail, as well as notification of their obligation to pay specified by month. At the end of 2015, payment slips were also sent for the following half-year period, and at the same time all beneficiaries who had not paid their debts were sent reminders.

The status of returnees and organized accommodation

In 2015 positive changes were recorded in the speed of resolving applications for attaining the status of returnee and payment of the returnee benefit. However, figures from civil society organizations show that some applicants still wait for one to two, or even three years for the resolution of their status, and during that time they do not exercise the right to health care nor do they receive any benefits. It is encouraging that appeals against first-instance decisions are



resolved promptly and at this moment none has been left unresolved. However, the recommendation from the Report of 2014, that the right to monetary assistance and health care should be recognized from the moment of the establishment of the status of returnee for the next six-month period, was not implemented, although the SORHC announced improvements to the legislation, as well as the launch of an initiative to increase the amount of returnee benefit.

The most important event in this area was the fall in the number of users of organized accommodation, which was mostly the result of the closure of the Reception Centre at Strnica near Knin, and in 2016 it is planned to close the remaining facilities. On 31 December 2015, there were a total of 346 users of organized accommodation, which is 76 fewer than in the previous year.

The most important event in 2015 was the fall in the number of users of organized accommodation, which was mostly the result of the closure of the Reception Centre in Strnica near Knin.

First-instance bodies rendered 50 positive and five negative decisions, whilst six applications remained to be resolved, whereby a small but visible improvement was achieved in comparison with 2014, when 42 positive and five negative decisions were rendered, and 14 remained to be resolved.

However, due to the stalling of the procedure to issue use permits for the Dumače displaced persons settlement, in 2016 the closure of the facility in Mala Gorica is in question, where there are currently the most users.

The recommendation to the Government of the RC and SORHC has been partially implemented, to conclude a settlement as soon as possible with the owners of occupied private properties which still cannot be taken possession of, or that have been destroyed, and who have to pay the temporary users for the investments they have made, since in 2015 four settlements were concluded, by which the RC took over payment of unpaid claims and the costs of civil contentious proceedings. Six cases are still in the process of agreements being concluded, and it is planned to conclude them during 2016.

Reconstruction

First-instance administrative proceedings are still slow. Civil society organizations state that there are 1.464 cases unresolved in the first instance, whilst SORHC states that there are 1.212, as well as 492 in the second instance. Since in 2015 SORHC resolved 240 second-instance cases of reconstruction, the remainder will probably be in the process of resolution for at least two more years. In 2015 more than 300 houses included in the reconstruction programme were in various stages either of planning or construction, and for 71 an inspection was conducted and were handed over to the owners. This pace shows that the difficulties in exercising the right to reconstruction, which was possible to request until 30 September 2004, will still be present for years to come.



There are also significant problems related to the restoration and reconstruction of the electricity network in the areas of return. That is to say, the restoration and reconstruction programme of the areas affected by the war should have been completed by 2008, but in 2015 it was still necessary to reconstruct the network in 80 villages/settlements in six counties: Karlovac, Šibenik-Knin, Lika-Senj, Sisak-Moslavina, Požega-Slavonia and Zadar, because 283 reconstructed households, in which only 81 persons live, are still without electricity. Here returnees have been charged for the connection, with the explanation that the return has been completed.

It is necessary to ensure access to electricity for beneficiaries of the reconstruction programme who still do not have access to it.

For example, 11 inhabitants of Drenovac Osredački, all elderly, and also members of the Serb national minority, live without a connection to the electricity network, the only road passing through the village is not maintained and they are not able even to go to the local graveyard, while their daily supplies come to them from Bosnia and Herzegovina (hereinafter: BH). The problem is made more complex by the fact that the construction and reconstruction of the electricity infrastructure and installations necessary for the connection is linked to the territory of BH, which means that drawing up the design project documentation and obtaining permits and financing should be undertaken by BH. Such problems, whose resolution cannot be seen on the horizon, lead to social insecurity, which we will write more about in the chapter on energy poverty. It is necessary to ensure access to electricity to beneficiaries of the reconstruction programme, who still do not have access to it.

RECOMMENDATIONS:

37. To the State Office for Reconstruction and Housing Care, to provide additional resources, or housing units, for all beneficiaries included in the priority lists and the annual plans for the provision of housing;
38. To the Legislation Committee of the Croatian Parliament, to draw up a consolidated text of the Act on Areas of Special State Concern;
39. To the State Office for Reconstruction and Housing Care, to propose to the Government of the RC legislation to recognize the right to a benefit and health care under special legislation on the status of returnees, from the moment a decision is rendered to establish the status of returnee;
40. To the State Office for Reconstruction and Housing Care, to harmonize the remaining unharmonized subordinate legislation with all the amendments and supplements to the Act on Areas of Special State Concern;
41. To the State Office for Reconstruction and Housing Care, to propose to the Government of the RC amendments to the Act on Areas of Special State Concern and extend the deadline for filing applications for the provision of housing;



42. To the State Office for Reconstruction and Housing Care, to propose to the Government of the RC to adopt as urgently as possible an Act on the Provision of Housing, whereby, amongst other things, value is given to the status of returnees who were former holders of protected tenancy;
43. To the State Office for Reconstruction and Housing Care, to render decisions and ensure payment of benefits pursuant to the Conclusion by the Government of the RC of 17 July 2008, and to adopt a unified general act as soon as possible;
44. To the State Office for Reconstruction and Housing Care, to conclude a settlement within a reasonable time with the owners of occupied private properties who are not yet able to take possession of them, or which were destroyed, and who have to pay the temporary users for the investments they have made;
45. To the State Office for Reconstruction and Housing Care, and HEP ODS d.o.o., to prepare and implement projects and programmes to ensure access to electrical energy for beneficiaries of the restructuring programme who, due to a failure to reconstruct the electricity network, still have no access to electricity;

3.5. STATUS RIGHTS

Residence

"When I received the decision, I was shocked. I own a house and land, and for years I have had a family farming business, I regularly pay all my dues to the state, so I do not understand why the police are mistreating my family and me. Why were we de-registered? The police say that they did not find me at my address (I don't know why they were looking for me). There is a letter box where they can leave a notice, because neither I nor my family are under house arrest, but we have to go to work in our greenhouses ... and I think that I can use the little free time I have like any other free citizen."

In complaints by citizens, there is noticeable dissatisfaction with on-the-spot checks of their residential addresses. Pursuant to the Residence Act (hereinafter: RA), the police directorate in whose territory a person has registered residence will render a decision on de-registration, ex officio, if they are informed or if, by means of on-the-spot checks, they establish that that person does not actually live at the address.

Before rendering a decision on de-registration of residence, the competent police directorate must establish the facts and circumstances on the basis of which it may incontestably be concluded whether the person lives at the registered address. However, that obligation is often based only on on-the-spot checks, at a time when it may be expected that the person is not at home.



Citizens also point out the possibility of abuse of notification that they do not live at their registered address, which is characteristic of unresolved relations in divorce proceedings, property law disputes or disturbed relations between neighbours, and their objections relate to the truthfulness of the information collected, in view of the fact that it is collected from persons with whom they are, for instance, in dispute. The police believe the information they collect from on-the-spot checks to be objective, unbiased and credible, without question. However, in the complaints, it is alleged that opposing statements are not given sufficient attention. Since rendering a decision to de-register residence has wide-ranging consequences, mistakes in establishing the facts and circumstances can cause significant harm. For example, by the de-registration of residence ex officio, personal identity cards cease to be valid before their expiry date, which brings exercising the right to an appeal into question. In other words, with a decision to de-register residence, the obligation arises to submit personal identity cards within eight days, and they are then destroyed. In view of the fact that an administrative dispute against a decision may be instituted within 30 days, the question is how a person without an identity card can prove their identity in lodging an appeal.

Since rendering a decision to de-register residence has wide-ranging consequences, mistakes in establishing the facts and circumstances can cause significant harm.

Moreover, the qualifications of police officers are also questionable for assessing and drawing conclusions on whether a person definitely lives at the registered address, and whether the building has the necessary facilities for residence, on the basis of which a decision is made. The complexity is best illustrated by the case of members of a family from N.J. The procedure to de-register their residence was instituted on the initiative of the former spouse, whose friend works in the competent police directorate, and the family agricultural business was also at the registered address. In two on-the-spot checks, two months apart, police officers assessed that the citizen, his two small children and his parents did not live at that address, but elsewhere, so a decision was rendered to de-register their residence. In the meantime, the citizen filed an application for registration of residence, but he had to submit his identity card to the police station for it to be destroyed. After that he was not able to receive a new decision by mail because he did not have an identity card, and in the police station they were not able to hand him the decision because they did not have "a copy with a seal".

Moreover, the police, when establishing the facts, did not establish that the citizen was co-owner of half of the house in which his ex-wife lived, and she was preventing him from entering and staying in that house. As a result, he was not able to use that address as his residence. At the same time, they failed to establish that the building at the de-registered address was covered by a reconstruction programme, and the provision of the RA was not respected whereby a decision should not be rendered to de-register the residence of persons covered by a reconstruction programme, when the property had not yet been rebuilt. All this indicates the significant possibility of manipulation and errors in establishing the facts, and, in its statement,



the Ministry of the Interior does not examine the situation objectively, but justifies its own conduct.

The RA makes it possible to have permanent and temporary residence. It is possible to register temporary residence at the same address twice in a row, after which permanent residence must be registered at that address. It remains unclear why people, who are suspected of not living at the address of their permanent address, but at some other address, are prevented by the Ministry of the Interior from subsequently registering their temporary residence at that other address, but the Ministry exclusively renders a decision to de-register residence, which produces such serious consequences. In other words, a person who does not register the address of their temporary residence within the statutory time limit may be penalized by a fine. This, besides the fact that over the following two years they are obliged to regulate the question of the disputed residence, is much more acceptable than the existing practice.

Personal Identity Cards

After the adoption of the Personal Identity Cards Act (hereinafter: PICA), citizens mainly complain about the impossibility of having an identity card without a certificate, as previously, and the obligation to sign an Agreement on the provision of certification services. PICA prescribes that a personal identity card contains an electronic chip containing data, on which an identification and/or signature certificate may be stored, which citizens feel allows them to decide for themselves whether or not their identity card contains a certificate. They therefore find it disputable to prescribe categories of citizens on whose personal identity cards certificates must be stored. In addition, the provision which prescribes that applicants of personal identity cards are obliged to conclude an agreement on the performance of certification services is also disputable. The applicant in this way is forced to enter a civil law relationship with a specific service provider, whom he did not choose personally, that is, he cannot choose between several providers of that service.

Citizenship

With the coming into force of the Act on Amendments to the Act on Croatian Citizenship (OG 110/15), the question should finally be resolved of the appearance of "mistakenly issued citizenship certificates", whereby Croatian citizens are deemed to be persons registered in the citizenship records from 1 March 1978 to 8 October 1991, and who have been issued with a public document proving their Croatian citizenship.

On the other hand, some proceedings to resolve citizenship status are still conducted superficially. An example of this is a citizen of Roma nationality who was a member of the Croatian armed forces, as long ago as November 1991, with approved temporary residence for humanitarian reasons, and regulated status as a Croatian Homeland War Veteran, but this was not sufficient for the competent Police Directorate to inform him of the possibility of acquiring Croatian citizenship in the interests of the RC.



Residence of Foreigners

Just as in 2014, despite our recommendation, there was still a significant problem of refusal to extend temporary residence permits due to the lack of a valid foreign travel document, although for years previously the temporary residence of persons who were in the same situation was regularly extended. This situation particularly affects members of the families of Croatian citizens whose previous temporary residence was approved on the grounds of reunification of families or for humanitarian reasons. Confirmation of incorrect practice was also supported by some decisions by the appellant body, so the remedies were granted, and the residence permit extended.

However, the MI still insists on obtaining a valid travel document, even when this is in violation of the Convention on the Rights of the Child, which prescribes the obligation of ensuring the conditions for a child not to be separated from his/her parent against his/her will.

Despite the restrictions on obtaining travel documents for persons who have lived for a long period in the RC, although they are originally from the Republic of Serbia but cannot acquire residence there and therefore are unable to obtain new documents, they are still required to do so, unconditionally, although they had to leave their family in the RC as a result.

For example, the common-law wife of a Croatian citizen and mother of eight children, Croatian citizens, after being cautioned by the MI that she needed to obtain a new travel document from the Republic of Serbia in order to extend her temporary residence, travelled there with only a travel paper from the Serbian Embassy, and instituted a procedure for registration of residence, as a requirement for obtaining a new travel document. However, that application was turned down with the explanation that she lives in Croatia. As a result she was unable to return to her family, and she had two children with her, aged one and five, whilst the other children had stayed in Zagreb. We recommended that the MI find a solution to this as soon as possible and we were informed that the Embassy of the RC in Belgrade had issued her with a travel paper, and she had returned to the RC with her children.

The case of the Croatian Homeland War veteran and war invalid born in Zagreb also demonstrates the problematic practices of the MI. On several occasions he tried in vain to acquire Croatian citizenship, but was refused, with the argument that in view of his origins he first needed to regulate his citizenship of Bosnia and Herzegovina, which he could not accept, believing that he deserved citizenship of the country of his birth, for which he had fought. This was a "Catch 22" situation, because, in order to obtain a foreign travel document he needed regulated residence in the RC and a valid status, but in order to regulate his residence, with temporary residence in the RC, he needed a foreign travel document. In the same way, it is questionable why he lost the status of foreigner with permanent residence, which he acquired

In proceedings to extend temporary residence, the Ministry of the Interior still insists on obtaining a valid travel document, even when that is in violation of the Convention on the Rights of the Child.



by force of law in 1991. The explanation of the MI was that he did not refer to the competent police directorate by a certain date with an application for the issuing of a personal identity card for foreigners, so did not regulate his status of permanent residence. However, this has no ground in law, since only a monetary fine is prescribed for such a case.

RECOMMENDATIONS:

46. To the Ministry of the Interior, to prepare amendments to the Residence Act to establish criteria to assess whether a person lives at the address of their registered residence;
47. To the Ministry of the Interior, when establishing failure to register temporary residence within the statutory time limit, not to de-register permanent residence ex officio, but to act pursuant to the provisions of Article 16 of the Residence Act;
48. To the Ministry of the Interior, in proceedings to extend temporary residence of persons who live in the RC, to take account of their living situation and especially to evaluate humanitarian reasons and the reunification of families;

3.6. THE CONDUCT OF POLICE OFFICERS

The Complaints Commission of the MI and internal police supervision

Amendments to the Police Act in 2015 prescribed more precisely the manner of work and procedure concerning submissions and complaints by natural and legal persons, especially the Complaints Commission in the MI (hereinafter: Commission).

Despite this fact, over the year, citizens have not had a chance to use the opportunity for the Commission, which should represent a form of civil supervision of the work of the police, to conduct inquiry proceedings following their complaints about police conduct. That is to say, the new commission has not yet been founded at the headquarters of the MI and in the police directorates, since after the publication of a public call for applications, only 23 candidates applied for the 126 positions needed, and a sufficient number only for the Commission in the headquarter of the MI and for the Commission in Brod-Posavina County Police Directorate. One of the reasons was probably the lack of conditions necessary for effective functioning due to the failure to provide remuneration for participation in the work.

The new commissions in the headquarters of the MI and in police directorates, as a form of civil supervision of the work of the police, have not yet been founded.

With the significant backlog in the work of the Commission due to the large number of cases received and difficulties in its work in the previous period, meaning that citizens waited for a reply for more than a year, the current impossibility for complaints to be dealt with at all is a cause for serious concern.



The consequences of the backlogs in the work of the commissions are also seen in the impossibility of instituting disciplinary proceedings due to the expiration of the statute of limitations, when citizens' complaints were assessed to be well-founded. The statute of limitations on the institution of disciplinary proceedings for minor violations of official duty expires no later than six months from when the violation occurred, and for serious violations, no later than two years. Therefore, since decisions are rendered with a significant lapse of time from the submission of the complaint, violations of official duty have been left without disciplinary sanctions.

Regarding the system of internal supervision in the MI, a total of 2.495 complaints were received and 2.247 were resolved. Two hundred and twenty-three cases were found to be well-founded or partially well-founded, as in the previous year, that is, a little less than 10% of the complaints received. Therefore, it is still necessary to continually take measures to achieve more effective internal supervision in proceedings instituted by complaints by citizens about the unprofessional conduct of police.

Complaints to the Ombudswoman

"At that moment they jumped on me, he bent my arm, and threw me backwards onto the floor, then he put my sore hands together, without mercy, behind my back, and put on the handcuffs as though I was a serious criminal. At that moment I was completely wet and I asked to go to the toilet, but they told me I couldn't, they pushed me off in my slippers, dirty and without any documents or money. They pushed me into the car like an animal. I was dying of pain, I asked the policewoman to loosen my hands, I thought I would die, she just smirked and looked out of the window. I don't remember what happened next... The shock will remain with me for the rest of my life. When they torture me like that at the age of 71."

Complaints about excessive use of coercion by police officers are worrying, especially when they are lodged by elderly citizens, for whom according to the Ordinance on the Conduct of Police Officers (hereinafter: Ordinance) the obligation exists of considerate treatment. Means of coercion were used against a 67-year-old woman, including physical coercion and handcuffs, whilst a 71-year-old woman was forced to the ground, her arms were twisted behind her back and she was handcuffed. She was not allowed to go to the toilet or to take more appropriate clothes or shoes, and was taken out of her home in slippers, without any documents. Having processed her, the police officers left her at a bus stop, where, after a long wait, she was found by her daughter. In both cases the police directorates assessed that the use of coercion was justified and well founded.

The Ordinance gives police officers the possibility not to restrain elderly and visibly sick or infirm persons, unless the person is directly endangering the life of a police officer, the life of another



person or their own life. The possibility is also prescribed to restrain a person under the supervision of at least two police officers with the handcuffs in front, but in both these cases the women were handcuffed behind their backs. A police officer should use restraint so they do not cause any unnecessary pain or injury. However, from the video recording published, it is visible that the 67-year-old woman was calling for help and moaning in pain during the procedure. Moreover, it can be heard that the citizens gathered around were indicating to the police officer that his conduct was inappropriate, and asking him to be considerate, which shows that they did not feel in danger, that is, there was no immediate threat to the life of the police officer, the lives of other people or the woman's own life.

Regulations give police officers the possibility not to restrain elderly and visibly sick or infirm persons, unless the person is directly endangering the life of the police officer, the life of another person or their own life.

Further, the video recording also shows the personal identity card of a person who was present at the scene, and passers-by, who were not subject to police procedure. Although the legal ground for collecting, processing and publishing video recordings would be the Police Duties and Powers Act, in order to protect the privacy and personal data of citizens, in such situations, pursuant to the Personal Data Protection Act, people's faces and information on their identity cards should be concealed on the recording.

Means of coercion were also used inappropriately when, after ordering Hajduk football fans to lie on the ground, a police officer from the special police force exerted pressure on a fan's back with his foot. This use of physical coercion is degrading and inappropriate, which is not in line with the Ordinance.

The fan also complained of the use of excessive use of means of coercion whilst he was detained at the police station. Although the police officers used physical force to overcome resistance, they did not submit a report in line with the Ordinance which obliges them to do so, so the decision on the assessment of the justification of the use of means of coercion was rendered only on the basis of the information collected. The case law of the ECtHR requires a reasoned assessment of the use of means of coercion, from which it can be clearly established whether or not the use was excessive. Reports are therefore necessary on which a decision on lawfulness and legal foundation should be based.

We recorded an example of a citizen who was not even informed of the reason he was arrested. The mentioned person tried to report a criminal offence of threat at a police station, but the police officers sent him to another police station, and from there he was sent to a third. After he had visited police stations several times, at the end of the day he was arrested, but he did not know why. The police directorate established failings in the conduct of the police officers, because there was no justified reason for his arrest, and the responsible persons were cautioned. Since this conduct was not in the spirit of the Constitution and the (European) Convention for the Protection of Human Rights and



Fundamental Freedoms (hereinafter: ECHR) and in view of the circumstances and severity of the violation of rights, after the warning from the Ombudswoman, the police officers responsible also received a warning from their superiors so that such and similar failings would not be repeated.

Assessments rendered after internal police control proceedings were also the subject of complaints. A citizen complained that members of the special police threatened him and raised fear in him during a meeting which they initiated in relation to business problems he was having with the wife of one of them. Despite the fact that the Internal Control Service assessed the complaint to be without foundation, stating that four police officers at the time of the meeting in question were off-duty and did not act unlawfully or inappropriately, the engagement of special police officers in order to "reach an agreement" with the complainant, even when off-duty, may constitute a threat and raises the question of the lawful and professional conduct of police officers and their conduct when off-duty. In contrast to this, internal police supervision justified this conduct by the police officers with the generalized standpoint that "police officers, like all citizens of the RC, have all the constitutional rights which guarantee them freedom of movement and speech".

The case law of the ECtHR requires a reasoned assessment of the use of means of coercion, from which it can be clearly established whether or not the use was excessive. Reports are therefore necessary on which a decision on lawfulness and legal foundation should be based.

The Service did not see anything questionable in the fact that police officers who had absolutely nothing to do with the situation took part in the conversation with the intimidated citizen, in addition to the police officer whose wife was in a business relationship with him, nor did it make any separate statement on that fact. It is noticeable that citizens in their complaints express doubt about one of the basic principles of police conduct - respect for equality before the law, that is, they believe that police officers act with bias and selectively.

In one case a citizen expressed suspicion of biased police conduct due to the failure to take measures to protect her property, because, despite a court order prohibiting construction work, which the opposing party continually failed to respect, and after several complaints to the police, during one intervention they brought only her and members of her family to the police station, for allegedly disturbing the public peace and order. The first instance court she was cleared of all charges, in oppose to police claims, and this case illustrates very well the lack of trust citizens have toward public authorities and suspicion of biased conduct.



RECOMMENDATIONS:

49. To the Ministry of the Interior, to provide conditions for the effective functioning of the Complaints Commission and internal supervision;
50. To the Ministry of the Interior, to extend the deadlines prescribed for instituting disciplinary proceedings for violations of official duty, and to ensure the implementation of the provisions of the Police Code of Ethics;
51. To the Ministry of the Interior, for police officers to use police powers which encroach to the least possible extent on human freedoms and rights, and to act with especial care towards members of vulnerable groups;
52. To the Ministry of the Interior, to use means of coercion only to the extent necessary to achieve the purpose of their use;
53. To the Ministry of the Interior, in the use of police powers, to respect the privacy and personal data of citizens;

3.7. EMPLOYMENT AND CIVIL SERVICE RELATIONS

As a result of the economic crisis, which has lasted several years, and whose effects will certainly continue to be felt, in 2015 again many citizens were faced with the problem of finding work, but also of retaining it. In this environment, the exercise of employment rights that are already guaranteed, above all in state and public services (the civil service), instead of as a general principle to which all employed citizens of the RC aspire and which leads to the well-being of society as a whole, is often seen as an additional threat to the rights and opportunities of both the unemployed, and those who work in conditions which barely provide them with minimal social security. In 2015, there was a noticeable further deepening of the gap between the concept of the rights of those employed in the real sector of the economy and those employed in the public sector (state and public services, civil servants, and public enterprises).

Whilst the complaints against the private sector are still that, in an effort to make as much profit as possible, it is mainly insensitive to the rights and needs of its employees, the complaints against the public sector are that it gives its employees excessive rights. Here, it is necessary to emphasize that the general public often does not differentiate between those employed in state and public services, despite the fact that the rights and obligations arising from employment relations and on the basis of an employment relationship of both of these are regulated by different acts (acts, ordinances, collective agreements etc.).

In the belief that both state and public officials, civil servants, as well as those employed in public enterprises, are a privileged class in society, merely because they receive their salaries, directly or indirectly, from the state budget, the term "*uhljebi*" (a word used to describe a form of alleged social 'parasitism') has begun to be used for them in public, which indicates a problem not only of the functioning of state institutions as a whole, but also the dissatisfaction of citizens aimed against individuals, often subjectively and without any criteria. So, those who



have a salary that is financed (or at least partially financed) from the state budget are often stigmatized as well-paid and protected idlers, who were employed without regard for the prescribed procedure and necessary criteria, mainly because of their political suitability or friendship or blood relationship. The labelling of public sector employees as "uhljebi", apart from being degrading and insulting towards individuals, indicates the lack of confidence of citizens in institutions, but also further deepens it, thereby creating a vicious circle of dissatisfaction.

Whilst the complaints against the private sector are still that, in an effort to make as much profit as possible, it is mainly insensitive to the rights and needs of its employees, the complaints against the public sector are that it gives its employees excessive rights.

On the other hand, the lack of security of employment and the inability to exercise fundamental employment rights, such as the right to paid employment and to appropriate time off on a daily, weekly and annual basis, are often problems faced by employees in the private sector. Workers also point out the arbitrary behaviour of employers in implementing their statutory but also their contract obligations, which frequently leads to the multiple violation of their rights. For a large number of people, fear of losing employment discourages them from fighting for their rights

in court, and that same fear has a negative effect on their use of unions in their struggle, or even organizing unions at all. An employee in the private sector is the weaker party in the employment contract relationship, and the fear of survival determines how he will behave in situations when his employment rights are violated.

In 2015, the Ombudswoman received 316 complaints and petitions in the field of the civil service and employment relations, including some for harassment/abuse in the work place, and complaints by the unemployed, which is an increase of 39.82% in comparison with the previous year. This shows that citizens are insufficiently informed about their rights and how to protect them in this field, which is also the result of the lack of confidence in the competent institutions, and the advice of insufficiently trained persons, and sometimes an expression of the weakness of those who do not have the financial means for legal assistance or expensive and long court proceedings.



3.7.1. Rights during unemployment

"I am unemployed and registered with the Croatian Employment Service. I receive the guaranteed minimum income benefit of HRK 1,600, my wife is also unemployed, and we are parents of two small children aged 11 and 13 and are renting our home. The problem is that my CES officer does not recognize reporting by telephone; she requires me to come in person. When I tell her that I do not have HRK 26 for the ticket, she is not interested... I went to see her on 26 February 2015, and I was supposed to report on 26 March, but because of the financial situation I am in, I did not go there, but I called by phone. But that was not good enough. She wants me to come in person. She is not at all interested in my problems, and I am not the only one..."

As in 2014, unemployed citizens complained to us about problems in exercising their rights with the Croatian Employment Service (CES), primarily young people, dissatisfied with the work of the CES, related to occupational training without commencing employment. Citizens who registered with the CES after ending employment are still dissatisfied with the length of appeal proceedings against first-instance decisions by which they were deleted from the unemployment records, or lost the right to financial benefit.

Data on the age of unemployed persons newly included in training measures without commencing employment are almost identical to those from 2014. The amount of financial support to participants was increased from HRK 1.600 to 2.400, and after completion of training 52% of them find employment. There is no doubt that this, alongside other employment policy measures, leads to higher employment of young people, but since in 2015 a total of 151.571 newly unemployed persons were registered aged between 15 and 29, it is necessary to do much more.

Unfortunately, instead of being strengthened, the work of mobile teams from the CES has been reduced, although it proved to be very useful, especially in caring for surplus workers.



3.7.2. Employment relations in public services

I started work in the V. Home for the Elderly and Infirm on 6 October 2014. Every year I worked on a temporary contract as a cleaner. While I was working I was satisfied and liked my work, and my supervisor was also satisfied with me, and told me so on several occasions. Every time I left it was painful for me and those in the Home, because we get used to being together and living like a family. So from year to year I was promised that I would be kept on (permanently) and I believed them and waited. However, things started to change all of a sudden. Everything I had been promised was forgotten. The county prefect and the head are employing people who have never worked in the Home. I am very unhappy... I don't know who to turn to anymore so I am asking you to help me..."

Complaints in this area included the possible violation of employment rights in public services, relating to irregularities in employment, including employment without the publication of a call for applications, annulment of calls for applications, nepotism, prohibited terminations, reduced salaries, failure to pay for overtime work, irregularities in appointments and/or dismissals of heads, prohibited terminations of employment contracts, and failure to pay severance pay. We sent recommendations to the heads of public institutions related to the prohibited conclusion of service contracts, omissions in concluding new employment contracts without previously terminating those contracted beforehand, and the failure to undertake the prescribed occupational safety measures.

The competent inspection services sent us the requested reports within the deadlines set. The complaints about the work of the inspection services, after the conducting of inquiry proceedings, were mostly unfounded. However, due to omissions in the work of the education inspection service in cases of irregularities in employment in pre-school and secondary school institutions, we recommended that the Minister of Science, Education and Sports examine the conduct of education inspections, so that in repeated supervision the prohibited conclusion of several service contracts over a long period of time would be sanctioned. The fact that it is necessary to improve the quality of the work of the education inspectors is also shown by the fact that of 60 decisions by education inspectors, against which appeals were lodged in 2015, as many as 23, or 38.3%, were overturned in second-instance proceedings.

Citizens complained to us regarding possible irregularities in publishing and conducting the procedure of calls for applications for employment in public institutions, believing that the constitutional right to equal access to public services could not be ensured merely by the formal publication of a public call for applications, but also by the transparent conduct of the selection procedure of registered candidates, with the use of clear and previously known criteria.



Although employment in public services is regulated by a series of laws and collective agreements, depending on which activity in the public interest is in question, and by the internal acts of employers, there is still significant room left for discretion in selection procedures, regardless of any prescribed requirements for founding employment relations, which often arouses suspicion in citizens that those procedures are not conducted in a lawful manner and that certain candidates are favoured. Since employment procedures in public services are not deemed to be administrative proceedings, because they do not decide on the rights and obligations of candidates, employers are not obliged to render a decision. A particular problem is posed by the fact that in decisions and notifications on the selected candidates, or those who do not meet the formal requirements of the call for applications (so they cannot be deemed as candidates), there is no instruction on remedy, which people see as a violation of the constitutional right to an appeal.

The constitutional right to equal access to public services cannot be ensured merely by the formal publication of a public call for applications, but also by the transparent conduct of the selection procedure of registered candidates, with the use of clear and previously known criteria.

3.7.1. Civil service employment relations

"I have been working in the Municipal Court for 19 years. I asked for a transfer for family and health reasons to (another) Municipal Court. My problem is that I have severe asthma and I live with my brother who is in a wheelchair. I asked for a transfer because I have college education but I am employed as though I only had secondary school education. I have had successful assessments and I have never been on sick leave. I graduated while I was working and struggled very hard. I first applied to the Ministry of Justice and was told that this was under the competence of the president of the court. One month ago I applied to the president of the court, but I did not receive any reply. I would like to ask you if this is within your competence, to send me a message or to give me an interview..."

In 2015 the Croatian Parliament adopted the Strategy for the Development of Public Administration for 2015 to 2020 (hereinafter: Strategy), which is a framework for its development, and is meant to create the conditions for the work of a professional and efficient public administration, easily accessible to citizens. However, this arouses fear in public service employees that it will be used to draw up goals, although justified and desirable, to implement a reduction in employees' rights, without any clear criteria. Since the Strategy was not adopted until the middle of 2015, it is still too early to assess its effects, but it is to be expected that the reform will be conducted on the basis of clear, objective and previously established criteria,



based on a previously conducted in-depth analysis of the current situation, which should point out the specific weaknesses of the system.

The ministries still do not respect the decisions of the Civil Service Commission or the instructions of the Ministry of Public Administration, and new decisions on civil servants' schedules, due to changes in organization, are still issued with retroactive effect.

The excessive burden over many years on the Civil Service Commission is still a major problem. In the first six months it had 23,901 administrative cases pending, of which 8,646 were new. The Commission is also overburdened with appeals sent to it by first-instance bodies, although they should have dismissed them, when the legal requirements for doing so were met. Due to the long duration of proceedings before the Civil Service Commission, administrative disputes are instituted due to the failure of the administration to respond, in other words, so that the Commission would begin to resolve the case as soon as possible. The long duration would be reduced if the Administrative Inspection Service proposed to the Commission

to annul or overturn an unlawful decision, pursuant to the Civil Servants Act. However, the only long-term and sustainable way for the Civil Service Commission to function properly is to strengthen its human resources, in order, above all, to reduce the many years' backlog, but also to make it possible to regularly resolve newly received appeals.

Despite our recommendations, the ministries still do not respect the decisions of the Civil Service Commission or the instructions of the Ministry of Public Administration, and new decisions on civil servants' schedules, due to changes in organization, are still issued with retroactive effect.

In 2015 a certain number of civil servants left the service by force of law, due to final judgments for criminal offences, which are an obstacle to admission to the civil service, as a result of which the Constitutional Court received a proposal for a review of conformity with the Constitution of the provisions of the CSA, which prescribe that form of termination of service.

Believing that the provisions of the CSA regulating termination of service by force of law, but also the provisions on obstacles to admission into the service, were not in line with the regulations in the field of criminal legislation, through amendments to the CSA, the list of criminal offences which prevent admission into the service, and which thereby represent reasons for termination of service by force of law, was supposed to be revised. That is to say, those criminal offences in the CSA are not listed according to the chapters of the CC currently in force, whereby it becomes questionable whether the CSA actually covers the criminal offences which should be an obstacle to admission into the civil service. The CSA is not harmonized with the CC either in relation to the question of the principle of the more lenient law, and there is also the question of the non-harmonization of the CSA with the Act on the Legal Consequences of Conviction, Criminal Records and Rehabilitation, because, although rehabilitation takes effect with the passing of the prescribed time limits by operation of law, the time must be borne in mind which is needed for those data to be actually deleted from the



criminal records, meaning that the possibility exists for rehabilitated civil servants to have their service terminated.

In contrast to other bodies, who mainly replied to us within appropriate time limits, the Ministry of Maritime Affairs, Transport and Infrastructure did not send any statement concerning a case indicating the status problems of maritime officers in the merchant navy employed on a ship under a foreign flag, even after a year of asking, and regardless of the rush note sent.

3.7.3. Psychosocial support for police officers in the Ministry of the Interior, prison guards and authorized officials of the Ministry of Justice

The rhythm of shift work, the experience of physical danger, the hierarchical command structure, the responsibility of bearing arms, special powers and exposure to stress or traumatic events, which also include everyday encounters with violent criminal offences and their consequences, may be especially challenging and discouraging for officials exposed to such working conditions. Another, new, circumstance that has had an additional effect on some is the refugee crisis which marked 2015.

The provision of psychosocial support to officials employed in the MI is regulated by the Police Act and the Ordinance on Psychosocial Protection to MI Employees. In 2015 the competent management filed 16 applications for the inclusion of police officers in the provision of psychological assistance and support, but only one procedure was instituted on a personal request. Ten police officers were sent for treatment due to significant changes established that could harm the performance of their work. Upon completion of treatment and an extraordinary health examination, all returned to their posts.

Despite the well-organized and defined system of psychosocial support in the MI, it is necessary to pay more attention to negative stigmatization and fear of loss of employment rights, which result in police officers hesitating to request the available assistance, since only one procedure was instituted on a personal request. Programmes of psychosocial support need to be aligned to the specific characteristics of police work in the current refugee crisis, which relates to close and everyday encounters with human suffering.

The Ministry of Justice, when receiving officers for security work, verifies their psychological and physical capacities, and then sends them for a health check every two years. However, due to the lack of financial resources, health examinations have not been conducted since 2010 and officers are also not provided with psychosocial support as part of their job. In the case of a need for support, they are referred to the opportunity of taking sick leave and seeking help in

Deficient and discontinued support, with exposure to stress and traumatic experiences, increases the risk of non-adaptive functions in the work, family and wider social environment, and ultimately towards citizens themselves, especially those in detention.



health institutions, and this explains the small number of reports of attacks on officials, so it is concluded that security officers deal effectively with stress.

Regular and extraordinary supervisory examinations, even when they are conducted every two years, cannot in any way replace the systematic provision of psychosocial support. To explain the lack of provision of support in this way is unacceptable, especially when a Service for Psychosocial assistance for authorized officials exists, whose scope of work also covers precisely the provision of support and monitoring the negative effects of the work on psychophysical health.

The provision of psychosocial support for MI police officers and other authorized officials of the MI is extremely important, especially in the context of their conduct towards people deprived of liberty. Deficient and discontinued support, with exposure to stress and traumatic experiences, increases the risk of non-adaptive functions in the work, family and wider social environment, and in the end towards citizens themselves, especially those in detention.

3.7.4. Employment relations in the private sector and crafts

"I filed a complaint against my employer who did not pay me two salaries, he lied in the registration, I did not receive a single payment sheet nor NPI form, nor confirmation of registration for pension and health insurance. My employer told us that under the new law he could send us on unpaid leave for four days and we had to agree to this and use it, which we did. Overtime is not mentioned anywhere. I was let go although I am on sick leave. I learned about being fired by accident when I went to the pension insurance office for a certificate. I don't have the necessary paperwork to report to the employment service, nor do I know the reasons for being let go. Who can I turn to? Honestly, I am disappointed because my employer violated my employment rights and is not treating me at all well. Isn't a worker worth anything in this country?"

As in 2014, citizens complained to us, pointing out irregularities in the termination of employment relations, unlawful overtime work, the failure to register and failure to increase salaries for overtime work, failure to pay salaries due, and severance pay, and non-delivery of the calculation of owed and unpaid salaries and severance pay. We advised complainants who indicated possible prohibited termination of employment and monetary claims on their employers to protect their rights before the court. We referred complaints indicating a possible violation of the provisions of the Labour Act covered by misdemeanour sanctions and the Minimum Wage Act to the labour inspection service.



In the last quarter of 2015, the labour inspection service began to apply the powers under the Act on Amendments to the Act on Insuring Workers' Claims in the Event of an Employer's Bankruptcy. Due to the large number of employers with frozen bank accounts, the inspectors almost exclusively rendered decisions ex officio for the failure to pay salaries or remuneration, and as a result they were not able to act on complaints/petitions by citizens pursuant to their powers under the Labour Act and the Labour Inspection Service Act. If this trend continues, due to the insufficient number of inspectors, the resolution of petitions will begin to take a very long time, and citizens' confidence in the inspection service will be broken.

Most of the complaints received indicate the simultaneous violation of a series of employment rights, and almost all of them show a worryingly large number of employers who do not want to meet or who do not succeed in meeting their basic obligation from employment relations, which is the payment of salaries for work done. In view of the fact that the calculation of unpaid salaries is an enforceable document on the basis of which a worker is able to institute proceedings for direct payment with FINA, employers avoid giving their workers even a calculation of their salaries, to prevent them from obtaining relatively quick and effective payment of their claims. The problem is exacerbated by situations in which workers are paid their salaries completely or partially "under the table".

3.7.5. Harassment and abuse in the workplace

"I am writing to inform you of the many irregularities and inappropriate behaviour of who is the acting head of the Elementary School. I have been employed at the school for six years... I approached him due to unpaid shift work, and travel expenses, believing that he would take the appropriate measures, in respect of the law... the headmaster's behaviour was an unpleasant surprise and degrading for me as a person, and as a member of the staff of the school, because he told me: 'You are too stupid to ask me any questions, it would be better for you to keep your mouth shut and work, because I am the boss in this school and it will be as I say, and if you go on like this you could end up in some backwoods somewhere. Be happy you are even working in this school.' After this unpleasant conversation the headmaster started insulting me every day, as did most of the workers at the school whom he had employed in order for him to retain the position of headmaster. After I wrote to the union and the State Inspection Service, my personal employment at the school became unbearable. Every day I was exposed to humiliation and harassment by the headmaster, and on many occasions I went home wondering how I would survive the next day..."

Harassment and abuse in the workplace, or mobbing, is still a major problem for many workers, whether they are employed in the state administration, public services, or by employers in the real sector. The reasons for this are many, but the lack of appropriate regulations and the lack



of professional conduct and basic moral guidelines in mutual relationships in the business environment are the most obvious.

An increasing number of people contact us seeking help and protection due to psychological abuse in the workplace, mainly from their superiors, and in fewer cases from colleagues. Often in complaints relating to other forms of unlawfulness or irregularities in the conduct of employers, some form of abuse of workers is also indicated. Data from the Association for Help and Education of Victims of Mobbing also indicate a growth in the number of complaints, in that most of them come from workers employed in the real sector, whilst complaints to the Ombudswoman indicate that abuse in the workplace is equally present in the public and the private sectors, regardless of the level of education, gender or age of the victims. It may be supposed that a large number are still afraid to report abuse or to take any measures against the abuser, until their health is seriously threatened, or they are threatened with the loss of their job, or when they are no longer employed in the position where they were abused.

Although it is often difficult to differentiate whether it is a case of abuse or an over-sensitive worker, or a lack of understanding and bad communication between workers and/or with their superiors, abuse in the workplace is a serious problem for which a solution is not being sought in an appropriate manner. In the RC there is still no statutory definition of abuse in the workplace, nor is protection from abuse in the workplace regulated, apart from the form prescribed by the Criminal Code, despite earlier recommendations by the Ombudswoman. Although the Government of the RC in its Opinion on the Report for 2014 pointed out that no impediment exists for the protection of workers from abuse in the workplace to be resolved by collective agreements, which is good practice in EU Member States, collective agreements cannot comprehensively, equally and consistently regulate the problem of abuse in the workplace, since a large number of workers are not organized into unions, or, despite the right of freedom of association guaranteed by the Constitution, there is no real possibility of organizing unions, and ultimately of concluding collective agreements. Incidentally, the way in which collective agreements regulate individual questions, which are not regulated by law even in general, depends greatly on the opposing interests of at least two sides and their strength in collective bargaining. Finally, this form of regulation of the question of abuse in the workplace also contributes quite unjustifiably to the lack of uniformity of the case law.

Although the Occupational Health and Safety Act of 2014 also contains provisions on the obligation of employers to prevent stress caused at work or in relation to work, which, amongst other things, is also caused by factors such as the work environment, poor communication and relationships, no positive effects of the application of the Act have been seen with regard to the protection of workers from harassment and abuse. This is probably because the established obligation of the employer does not have any counterbalance in appropriate, effective supervision and sanctions against those who fail to implement that protection.



Abuse in the workplace is equally present in the public and in the private sector, regardless of the level of education, gender or age of the victims.

The remedies which may be used by victims of abuse in the workplace are still the institution of proceedings for protection of the dignity of a worker, pursuant to the LA. This is almost identical in content to the regulations on employment and collective agreements, which cover only some workers, bringing an action for damages for non-material harm due to an infringement of personality rights, and a criminal complaint for suspicion of the commission of the criminal offence of abuse in the workplace.

3.7.6. Citizenship as an obstacle to access to work and employment

Several complaints received relate to the problem of access to work and employment encountered by foreign citizens, members of the families of Croatian citizens who have temporary residence permits in the RC for the purpose of family unification, or later permanent residence, but they are not citizens of EU Member States or the European Economic Area, but so-called third country nationals.

Foreign citizens who have been approved temporary residence for unification of their family exercise the right to education, training, work and self-employment, pursuant to the Aliens Act (hereinafter: AA), which means that they are able to work in the RC without a work permit or a certificate of registration for work, and also certain working conditions are guaranteed for them, as well as the right to vocational training, education and student scholarships, tax incentives, social welfare, rights from pension and health insurance, etc., pursuant to the legislation regulating each area.

However, although the AA does not refer to special legislation to regulate individual areas of the right to work and employment of this category of foreigners, special legislation, without any justified reason, does however deny them the possibility of work and employment. The problem is even greater because, under the AA, family members of Croatian citizens are approved residence depending on whether they have the means for maintenance, but special legislation prevents them from acquiring those means by working.

A Croatian citizen applied to the Ombudswoman, whose wife, a third country national with approved temporary residence in the RC for the purpose of family unification, had been denied access to work and employment under the provisions of the Act on the Provision of Services in Tourism (hereinafter: APST), according to which a tour leader is deemed to be a citizen of the RC who meets the requirements for a tour leader prescribed by the APST, as well as a citizen of an EU Member Country or of the European Economic Area, under the same conditions. As a result, his wife was prevented not only from working as a tour leader, but also from even registering for a course for tour leaders.



In the same way, the APST also regulates the requirements for the work of a tour guide, about which we also received complaints, but in this case the situation is worse because a third country national with approved temporary residence for the purpose of family unification was allowed to take a professional examination for tour guide, but not to do the job.

As a result, the APST needs to be aligned with the AA, which does not prescribe this restriction, so that this category of foreigners would be able to be employed, regardless of whether they are third country nationals or citizens of EU Member States. Family members of Croatian citizens who reside lawfully in the RC, regardless of their citizenship, need to be permitted to have access to work and employment.

Without this, not only is their right to work threatened, but also the possibility of exercising the right to freedom of movement and residence.

Members of families of Croatian citizens who reside lawfully in the RC, regardless of their citizenship, need to be permitted to have access to work and employment, because otherwise not only their right to work is threatened, but also the possibility of exercising the right to freedom of movement and residence.

RECOMMENDATIONS:

54. To the Ministry of Public Administration and the Ministry of Science, Education and Sports, to improve the quality of the work of their inspection services;
55. To the Ministry of Public Administration, to prepare amendments to the provisions of the Civil Servants Act which regulate admission into the civil service, and the termination of service, by force of law, with respect for the new regulations under criminal legislation;
56. To the Ministry of Labour and the Pension System, to regulate abuse in the workplace through comprehensive regulation of employment relations and occupational health and safety;
57. To the Ministry of the Interior, to create the conditions to reduce the negative stigmatization and fear of loss of employment rights which result in police officers hesitating to seek psychosocial assistance;
58. To the Ministry of the Interior, to align the existing programmes of the provision of psychosocial assistance with the specific nature of police work in the current refugee crisis;
59. To the Ministry of Justice, to provide psychosocial support to authorized officials and the regular conduct of health examinations of judicial police officers;
60. To the Ministry of Tourism, to institute a procedure to amend the Act on the Provision of Services in Tourism, in order to enable access to work and employment to foreign citizens who are family members of Croatian citizens, regardless of whether they are from third countries or EU Member States;

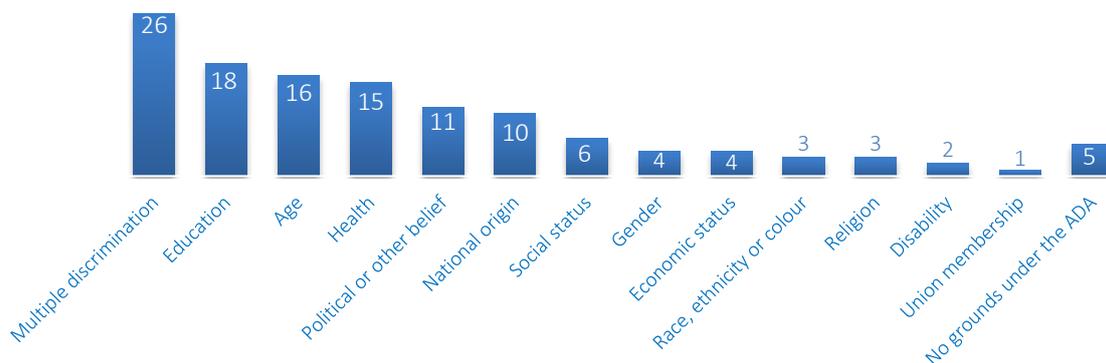


3.8. DISCRIMINATION IN THE AREA OF LABOUR AND EMPLOYMENT

"Do I need to wait for the decision to be overturned for the fifth time for something to be done and for people to see what is happening to non-party members, professional people, how they are treated, and the kind of explanations given, and, on the other hand, what people who are close to the party, but who are completely incompetent, are being given and how, in the Tax Administration, as a body of state authority, tasked with implementing the law, before whom all should be equal..??"

In 2015, there were 124 newly opened cases related to discrimination in the field of work and employment, that is 64 in the field of work and 60 in the field of employment, and this is still the area where citizens complain most of discrimination. The problems are still related to finding work, whilst those who are employed complain about being transferred to lower paid positions, harassment and violation of rights. Although businesspersons feel great pressure due to the current economic situation, which consequently also affects their work, the merciless struggle for solvency must not result in violations of workers' rights. There is increasing demand for younger health workers, prepared to work overtime, in shifts, frequently to do jobs which do not fit their job description. Regardless of the fact that a large number of workers, due to the lack of any other choice, are prepared to accept these demanding terms, they are very often victims of various forms of discrimination in the workplace.

Complaints on the grounds⁶ of discrimination in the field of work and employment



⁶This overview relates to all complaints received by the Office of the People's Ombudswoman, including the grounds of gender and disability, which were forwarded to the special Ombudswomans.



Inappropriate skills for the work available and the non-alignment of education and training with the needs of the labour market are some of the reasons for the unemployment of young people. In 2015, of the 285.906 unemployed, 29.6% were young people, but in comparison with the previous year, a fall is visible in the average number of young unemployed people.

During the year, 47.1% of people younger than 29 years from the register were employed, but on the other hand, 151.571 of them were added to the register, that is a high 48.8% of all newly registered unemployed.

According to figures from the CES, a large group of unemployed are also persons aged 50 and over, as many as 29.3%, which is not discussed sufficiently in public. In the verification procedures we conducted in 2015, the nature of the job did not require a specific age of the worker in a single case, nor was there any justified reason for unequal treatment in relation to age. The practice of employers shows that people from the age of 40, or 50 and over are already deemed to be "older" workers, depending on the type of activity and the employer.

Human resources policies were explained in various ways by employers, where none of them openly expressed a tendency to employ younger people. However, regardless of whether they were looking for characteristics associated with younger people or mainly considered job applications from younger candidates, the employment results led to unequal treatment of candidates of various age groups, that is, an exceptionally low proportion of older employed persons.

It is especially worrying that even bodies whose task is to provide assistance to the unemployed sometimes implement the discriminatory policies of employers. In 2015, we received complaints about the content of questionnaires for employment in a commercial company, with questions about nationality, housing status, earlier earnings of candidates, etc., distributed by a regional office of the CES. Since this questionnaire raised suspicion of discriminatory treatment of candidates in employment, it was immediately withdrawn and amended. However, although those employed in that body have had education on discrimination, in this specific case the knowledge they had gained was not applied. Therefore, it is necessary to continuously conduct education on discrimination and supplement and adequately apply the knowledge already gained, because otherwise, despite the money and time invested, its effect is undermined.

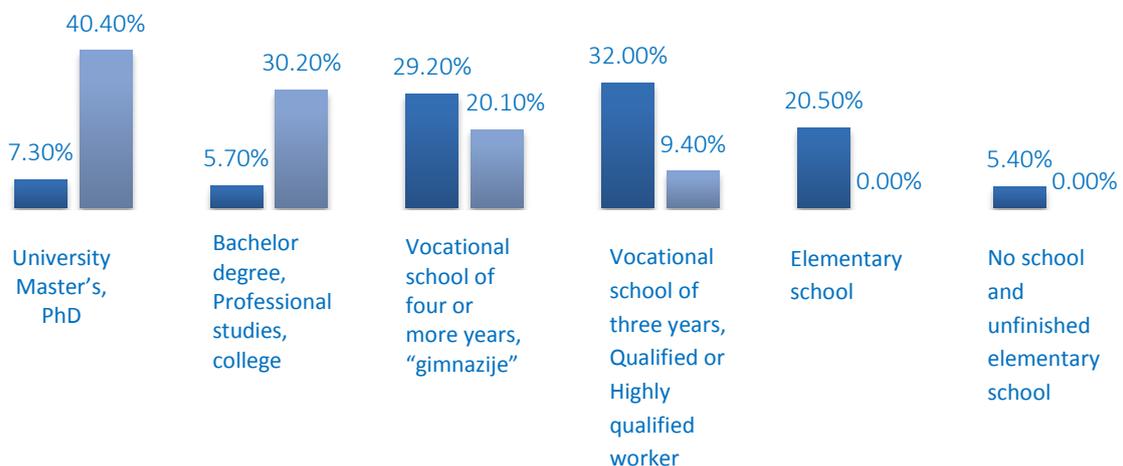
Bearing in mind the situation on the labour market in 2015, we monitored advertisements for jobs on several internet sites. Most of them were for employment of people with secondary school or vocational school education, unqualified workers, but there was a suspicion of discrimination on the ground of age and material status, by making a condition of employment the ownership of a car. The suspicion of discrimination on the ground of age was shown to be mostly justified, because employers could not justify that requirement objectively or with reason, for example when they were looking for young waitresses/waiters. The requirement of owning a car proved to be a justified situation when the location where the work would be done was without public transport, which again shows that the inaccessibility of public services



may lead to poor mobility and restricted opportunities for those who live in places with poor transport connections. In the advertisements, a frequent requirement is also work experience, which may represent discrimination on the grounds of age in relation to younger people, which is assessed case by case.

Groups that are difficult to employ also include those with secondary school or lower levels of education. Persons with three-year secondary school education and education for qualified and highly qualified workers account for 32.2% of the total unemployed, and those with four-year secondary school education and "gimnazija" 29.2%. Those with elementary school education account for 20.5% of the total unemployed, 5.4% of the unemployed have no education, while 5.7% of the total unemployed are those with bachelor degrees, professional studies and college education, and 7.3% with university and postgraduate education. If we compare the figures on education with the figures on occupational training without commencing employment, which was used by 18.597 persons and is one of the more popular employment measures, it seems that this measure was mainly used by highly educated persons (40.4%) and those with bachelor's degrees or similar study courses (30.2%). This category offers a greater chance of finding employment in any case, so more thought should be put into creating measures appropriate for those with lower levels of education.

- Registered unemployed persons according to their level of education, as on 31 December 2015.
- Persons included in the measure Training for Work, according to the level of education in 2015



We still receive complaints about discrimination on the grounds of political or other beliefs, concerning employment procedures in state bodies, but also in publicly owned companies. Citizens point out politically motivated assignments to lower-paid jobs, regardless of the results of work and assessments, and that these decisions are overturned by the Civil Service Commission several times, but the first-instance body stubbornly ignores its instructions. There are also problems with the amendments/supplements to the internal regulations adopted by the heads of bodies, municipal heads, mayors and county prefects, which regulate the organization and manner of work, and on the basis of which the status of each civil servant is



resolved. Despite our recommendations, there is still no effective or independent system of control of the adoption or amendment of internal regulations, nor effective protection from the consequences they cause. The High Administrative Court of the RC does not deem that it is within its jurisdiction to review the lawfulness or purposefulness of regulations, which it stated in Decision USOZ-36/14 of 2015, and the same standpoint was taken by the Constitutional Court in Decision U-II-2779/2009 in 2014. In this way, there is no court control of the adoption of new or amendments to existing regulations. In addition, in some administrative disputes, the administrative courts in Zagreb, Osijek and Split will not hear requests to establish discrimination, meaning that the system of protection from discrimination for civil servants and citizens who wish to become civil servants is extremely inefficient.

In complaints of discrimination on the grounds of political or other beliefs in employment at universities, no violation of rights has been established, because there was no formal call for applications for positions. Nevertheless, it has been seen that decisions are sometimes made by informal and non-transparent agreements, which is not only an ethical problem, but it also violates the constitutional right on access to public services under equal terms.

Poor legal solutions contribute to the image of the civil service as unprofessional and politicized, as often presented in the public. Besides the internal regulations already mentioned, over the past few years we have informed the Ministry of Public Administration that admission into the civil service in a minister's office and in the organizational units of some state bodies without any public call for applicants or without any advertising, and without any probationary period, is a violation of the constitutional right of access to public services under equal terms. This standpoint was also confirmed by the Constitutional Court in Decision U-I-2036/2012 of 2015.

Regarding discrimination on the grounds of national origin in the field of work and employment, a particular problem is the lack of official unemployment figures for members of national minorities, apart from Roma. When they are employed, due to their insufficient competitiveness, Roma people take up lowly qualified and poorly paid jobs in the private sector or in public works, which does not resolve the problem of their long-term unemployment. Amongst the 5,043 registered unemployed Roma, as many as 52.2% are young, of whom 11.3% are aged between 15 and 19, who have abandoned education, and there are only five of them with higher education. The difficult economic situation and social exclusion were also confirmed to us by many who visited Roma villages, about which we have written in the chapter on discrimination on the grounds of nationality.

We have also reported on the problems of employment of the homeless in previous years. Their employment in public works does not resolve the problem of long-term unemployment and exclusion, but it is encouraging that this group, in line with our recommendation, has been recognized in active employment policy measures, as particularly vulnerable. Besides them, there are also ex-prisoners, and persons accused of criminal offences, who are frequently subject to stigmatization, meaning that employment even after they have served their sentence or have been acquitted is practically impossible, especially if their trials were covered in the



media. The unemployed from rural areas and areas of special state concern also have a higher risk of poverty and social exclusion, where, due to modest economic activities and poor transport connections, the opportunities for employment are often minimal.

In the past few years the position of journalists has become increasingly difficult, especially in the commercial and local media, but also on public television, and the economic crisis is used as an excuse for restricting material and employment rights. Temporary employment contracts, service agreements or the status of freelance journalist, which is how most journalists work today, make it easier for employers to reduce their pay or to let them go, and make journalists more vulnerable and subject to manipulation by various interest groups— political, economic and others. Due to the danger of criminal proceedings and under the pressure of editorial policies, they often decide to censor themselves, which also affects freedom of speech.

In 2015 the media reported on the cases of three journalists from HRT (Croatian Radio Television), who were fired on account of public appearances. This was followed by sharp condemnation by the European Federation of Journalists. In one case, it was a matter of the extraordinary termination of employment due to the especially serious violation of work obligations of denigrating and insulting the director general in an email sent to the addresses of journalists and creative staff of HRT, whilst the other terminations were explained by violations of the Code of Ethics of journalists and creative staff and the General Rules on Work and Conduct of HRT, due to media appearances and "undermining the reputation of HRT". All three journalists instituted court proceedings, and in the meantime, two of the terminations were declared inadmissible by non-final decisions. According to case law, public statements by workers against their employers and the presentation of them in a negative light may have consequences for employment relations. This is a particularly serious situation, and with respect to all the circumstances and interests of both parties, its continuation is not possible. However, when this is a case of journalists, the situation is different. The Decision of the Constitutional Court of the RC no. U-II-1142/2013 of 2014 underlined the role of journalists in informing and drawing public attention to certain questions, in contrast to the situation of "normal" workers, of whom loyalty, reserve and discretion are expected. The decision of the ECtHR in the case of *Wojtas-Kaletka v. Poland* (2009) is in the same vein. If a journalist's public statement, which undermines the reputation of the employer, deserves the most severe sanction, such as the termination of employment, objective criteria must exist to assess the damage to the given reputation, because otherwise it could be concluded that it was a matter of the subjective attitude of those who made the decision. Moreover, the General Rules on Work and Conduct of HRT and the Code of Ethics of journalists and creative staff of HRT must be aligned with the guarantee of freedom of speech, prescribed by the Constitution of the RC and Article 10 ECHR.

Unions allege that, as before, they come up against the transfer of union commissioners to other places of work, the termination of their employment, and a reduction in pay by the amount of the union membership fee. They also point out new forms of pressure on workers,



for example the publication of personal data in the media in violation of the Personal Data Protection Act, which is completely unacceptable and about which case law already exists in support of workers.

Discrimination in companies undergoing restructuring

"I worked for 30 years in that company, day and night, overtime, when I was sick and when I could barely stand on my feet, when someone needed substituting, whilst my small child was at home. I was always a good worker. Now when I have become sick from my work, they are offering me a contract for a position with a lower salary, which is not enough for me to live off. Where is the justice in that?"

In 2015 we received several complaints by workers employed by a major employer about discrimination on the grounds of their health, age and nationality. All the complainants expressed fear of losing their jobs, which, alongside their financial incapacity and the uncertainty of court proceedings, was one of the basic reasons for the failure to seek protection of their employment rights in court. A new systematization of jobs in this case truly had harmful effects on workers with health problems, and on older employees, who, in comparison with others, were allocated to lower paid jobs in a significantly higher percentage than others.

We reported on the harmful effects of the restructuring of major companies in earlier years as well, where the problem primarily arises in cases of abuse in decision-making by the employer about when and how they will undertake changes to the company's operations, since the autonomy of the employer in restructuring the company does not exclude the obligation to act in line with the Anti-discrimination Act, nor does it have priority over the rights of workers not to be discriminated against.

The outcome and true aim of the restructuring of a company must be considered critically, amongst other things, with an assessment of the positive economic effects of operations after restructuring, as well as the consequences it has for the rights of workers.

Although the restructuring of a company is not necessarily motivated by the employer's intention to discriminate against individual groups of workers, the disproportionately harmful effect which the chosen business policies or measures have on them is sufficient. Here it is necessary to take into account the fact that the right not to be discriminated against also presumes different treatment towards people whose starting positions differ, in order to ensure equal opportunities for everyone. Therefore, the employer's business policies should be aligned with the unequal starting positions of individual workers, who, for instance, due to their health, are not able to do all the work healthy workers can do.

Precisely for this reason, we found the suspicion of discrimination in employers who unintentionally, through the restructuring of their company, placed in an unequal position,



workers who, due to their poor health, were significantly more often allocated to physically less demanding but also less paid jobs than workers who did not have any health problems.

Regardless of whether this was a case of abuse of the restructuring of the company or an unintentional oversight by the employer, business policies which result in a reduction in or complete loss of previous rights of individual groups of workers violate the Anti-discrimination Act.

Due to the fear of the loss of their jobs, but also on the basis of union advice, workers mainly signed employment contracts for new, lower paid jobs, whilst those who refused to do so were registered with the CES as surplus to requirements. Therefore, it is no wonder that workers often accept the unlawful reduction in their rights and suffer various forms of discrimination, which has consequences for the wider social and economic situation.

It is not disputed that restructuring should increase the efficiency of a business, which is ultimately in the interest of the workers, but in this process it is necessary to take into account all groups of workers so that unequal treatment does not occur. The unconditional transfer of workers to lower paid jobs, because they are no longer physically able to do their previous work, is in violation of the ADA. In this way, through the reduction of their salaries, workers are in some way punished for their poor health, regardless of the fact that it was harmed precisely due to their job.

Older workers are also often affected by restructuring. It frequently happens that after such changes to a company, these older workers take early retirement in larger numbers, their employment relations ends for business reasons, or they stay in work in lower paid positions. Workers aged 50 and over account for more than 29% of registered unemployed persons, and of 32,494 registered workers whose employment relations ended for business reasons, as many as 80% were employed in the private sector. Although they are often regarded as surplus, it is overlooked that these are people with rich work and life experience, who can certainly contribute significantly to business success.

RECOMMENDATIONS:

61. To the Ministry of Labour and the Pension System and the Croatian Employment Service, to continue to work on increasing the rate of participation of vulnerable groups on the labour market, thereby respecting their specific needs;
62. To the Croatian Employment Service, to continue training for the various stakeholders on the labour market, especially employers, regarding stereotypes and discrimination at work, and in employment procedures, as well as in handling personal data pursuant to legislation;
63. To the Ministry of Public Administration, to establish an effective system of control of the lawfulness and purposefulness of the Internal Regulations adopted by the heads of public bodies;



64. To the Ministry of Culture and the Ministry of Labour and the Pension System, to work in cooperation with unions and journalists' associations to improve the statutory definitions of the work and work obligations of journalists;
65. To the Croatian Employers' Association, to provide education for its members on the application of Croatian and European anti-discrimination law, particularly in relation to discrimination at work and in employment procedures;
66. To Croatian Radio Television, to harmonize its General Rules on the Work and Conduct of HRT and the Code of Ethics for journalists and creative staff of HRT with the Constitution and the (European) Convention for the Protection of Human Rights and Fundamental Freedoms;

3.9. RETIRED PERSONS AND THE ELDERLY

3.9.1. Social Security of the Elderly Persons

„The institutions are aware of Mrs. A.M.'s ordeals. Furthermore, social workers visited her and made an official note about her situation. Unfortunately, she is still receiving responses like these and the only thing the social welfare center cares about is determining who the owner of those few acres of the vineyards and of the land is. And no one's concerned about her problems, nobody cares. Unless the Center can take over the ownership of that land, she might as well freeze to death and if she doesn't know where to go or what to do to solve her issues, since she cannot see well and cannot even fill in the form, she might as well sit in the dark... or be gone.“

The ageing of the population and its impact on social development are the issues present in all regions of the world. With this in mind, the UN and the EU have called for their member states to better adjust their societies to the needs of their elderly citizens. According to the United Nations Principles for Older Persons, the elderly need to be provided with independence, social inclusion, care, self-fulfillment and dignity, whereas the EU's Charter of Fundamental Rights prescribes the recognition and respect for the right of the elderly to dignity and independence and the participation in the social and cultural life. 1.1 million (26%) of the citizens of Croatia are aged 60 or over and by the year 2030 their share in the total population will reach 31%.

It is necessary to introduce state support for the elderly persons without a pension or other income, so called 'social pension', in order to reduce poverty within this vulnerable group.

Despite the fact that the elderly citizens, especially those without any income, are one of the most vulnerable social groups, state support for the elderly persons without a pension or other income has not been introduced yet. As far back as 2001 the Strategy for the Development of



the Pension Insurance and of the Social Welfare in the Republic of Croatia envisaged the possibility of the establishment of a separate, public, pension fund with the purpose of providing a certain minimal level of social security to the elderly, whereas the 2007 Joint Memorandum on Social Inclusion foresaw the introduction of state support for the elderly without any income. However, the latter measure was not implemented with the argument that it would discourage the participation in the pension insurance system of the persons who were employed for a shorter period of time and whose periods of pensionable service were, consequently, shorter as well. Nevertheless, taking into account the fact that the measure in question was not envisaged as a type of pension, since it was not supposed to be based on the citizens' pension insurance contributions, but rather as a right in the social welfare system, the argument is not convincing.

The fact that as many as 120.000 citizens of the Republic of Croatia aged 65 or older do not receive any pension or other income, while out of that number in 2015 only 6.122 received the Guaranteed Minimum Benefit (hereinafter: GMB) under the Social Welfare Act and would certainly qualify for state support for persons without any income speaks in favor of its introduction and implementation. Strict income censuses, especially for household members, property censuses and the legal institute of entering a note on the beneficiaries' outstanding debt into the land register are the likely reasons for such a narrow coverage of the elderly by the GMB. The entering of a note into the land register is not required for another social welfare benefit – Assistance and Care. Since it also involves a much lower income census, the elderly are more prone to applying for it than they are for the GMB. This trend can be backed up by the numbers: the elderly account for more than half of the registered 70.000 Assistance and Care beneficiaries. If this number is added up to that of the beneficiaries of other social measures, such as the Personal Disability Benefit, the Home Assistance Service and Housing Based on the Decision of the Competent Social Welfare Center, it becomes evident that approximately 60.000 of the elderly persons without an income do not receive any of the social welfare benefits.

The situation is even more difficult for the households consisting of two persons incapable of work and without an income. The changes in the amount of the GMB have created a great imbalance in the equivalence scales, since single persons incapable of work now receive HRK 920 instead of the previous HRK 800, whereas the sum for the households consisting of two elderly persons still stands at only HRK 960 and does not cover even their most basic needs.



“I am calling your Office hoping to receive help for my elderly neighbor. The woman does not have the resources to cover her most basic needs. She was on social benefits for a while but she is not receiving them anymore and now she cannot secure a livelihood for herself because she had transferred all of her property to her sister, who subsequently died. She entered into a maintenance-for-life contract with her nephew but he is not taking care of her nor fulfilling his obligations from the contract. The woman is old and frail and cannot afford the costs of a law suit.”

The abuses of the maintenance-until-death contracts are still present in practice. Unfortunately, in most cases the elderly maintenance beneficiaries contact the Office only after the contract has already been concluded. At that stage, filing a lawsuit for the termination of the contract remains the only remedy available to them.

In spite of our recommendation urging the Ministry of Justice to reconsider whether maintenance-until-death contracts should be regulated by the Civil Obligations Act (hereinafter: COA) and to introduce stronger protection mechanisms for the beneficiaries of the maintenance-for-life and maintenance-until-death contracts, the Ministry is still of the opinion that the exclusion of the maintenance-until-death contracts from the COA would result in citizens entering into legal arrangements of a different name but of identical content, without the protection now provided by the COA. With the existing legal regulation in place, stronger protection mechanisms for the beneficiaries ought to be introduced, such as prescribing the strictest possible form for these types of contracts, the monitoring of the implementation of such contracts by the social welfare centers, the introduction of the registries of the providers of maintenance until death as well as the limiting of the number of contracts one maintenance provider can enter into. Measures such as these are necessary to protect the elderly from financial abuse.

The abuses of the maintenance-until-death contracts could be prevented by prescribing the strictest possible form of contracting, introducing registries of the providers of maintenance, monitoring implementation of such contracts by the social welfare centers.

Situations encountered in practice, such as maintenance providers entering into maintenance-until-death contracts with dozens of beneficiaries, are a case in point. Cases like these should certainly lead to more detailed supervisions by the social welfare centers and could be avoided if a register of the providers of maintenance-until-death were to be introduced and the number of contracts per provider limited. The elderly citizens should continue to receive education about the risks related to such contracts as should the social workers providing the Counselling and Assistance Service to the elderly so that they could make well-informed assessments about the most optimal forms of assistance to be provided to the client. In one of our cases we suggested that administrative



control of the work of a social welfare center be undertaken. The center failed to take all of the necessary professional measures to protect an elderly client with serious cognitive damage who had entered into a maintenance-for-life contract. According to the findings of the supervisory body, the center's employee did not perform a careful and comprehensive assessment of the client's situation and of the most optimal form of service to be provided to him. The client had concluded a maintenance-for-life contract with a professional caregiver. Although the center was notified of the maintenance provider's failures to meet her contractual obligations, a legal guardian was appointed for the client only to represent him in the legal proceedings regarding his institutionalization but without the power to file a law suit in the client's name for the termination of the contract in question. Consequently, the client passed away with the contract still in force. In order to prevent similar situations social service providers, their employees and the members of their families should not be allowed to enter into maintenance-for-life and maintenance-until-death contracts with the elderly citizens.

Although provided for by the law, non-institutional social services such as Assistance at Home, Counselling and Assistance and Half-Day or Full-Day Stay are not available in many of the local communities. The income census prescribed for the Assistance at Home Service prevents many of the citizens from accessing it. Establishing a lower census would enable a higher number of the elderly to remain in their own homes and thus reduce the need for institutional care.

Under the Social Welfare Act (OG 157/13, 152/14, 99/15; hereinafter: SWA), social welfare centers should primarily provide the clients with non-institutional services and resort to the institutional ones only if the provision of the non-institutional services in their local community is underdeveloped or does not cover all of the existing needs. In 2015 the number of the elderly beneficiaries of the Assistance at Home Service has grown to over 5 000. However, that number only accounts for slightly more than 50% of the demand for this service as specified in the Social Services Network.

Although the Social Welfare Act defines them as services within the social welfare system, the Half-Day and Full-Day Stay for the Elderly have been completely omitted from the Social Services Network. Furthermore, only 38 elderly individuals managed to gain access to them based on the decisions by the competent social welfare centers. However, having what has been said in mind, it is unclear how the centers even managed to issue such decisions. Day activities for the elderly are organized through project financing and three-year programs implemented by NGOs and other service providers and their number has been significantly reduced in comparison with the previous years.

In addition to non-institutional care, the accelerated aging of the population creates the need for the long-term accommodation of the elderly. In Croatia this type of service is predominantly provided by the homes for the elderly and the incurred costs represent a growing strain on the state and the county budgets. In the course of 2015 nine new homes for the elderly were opened and 13 new providers of accommodation services registered in several counties and the City of Zagreb. However, the number of the providers of the Organized Housing Service has



increased by only four, all located in the City of Zagreb. Waiting lists for accommodation in the state and county homes as well as those run by other providers contracted by the MSPY are not transparent and their number is difficult to determine since the potential beneficiaries tend to submit their applications to several institutions at once. It is evident, however, that, due to the fact that the state provides subsidies partially covering the accommodation cost in the county homes, these institutions receive the highest number of applications. One of the intentions behind the changes introduced into the model of financing of the county-run homes and of other institutions contracted by the MSPY to provide accommodation services for the elderly on the basis of the decisions issued by the social service centers was to create the conditions for the elaboration of the admission criteria for these homes. This topic is covered in more detail in the chapter on age-based discrimination.

Pursuant to the SWA, the MSPY was required to perform an analysis of the work of the social welfare homes and to submit the findings to the Government of the Republic of Croatia within the period of nine months following the coming into force of the Government's Decision on the Unique Criteria for the Analysis of the Work of the Social Welfare Homes Established by the Republic of Croatia and the Decentralized Homes for the Elderly Established by the Regional Self-Government Units and the City of Zagreb. However, due to the fact that the decision in question was not issued within the legally prescribed time limit, the MSPY did not submit its report nor make the findings public.

In comparison with the previous year, in 2015 inspections of the work of the institutions providing accommodation services and of the foster families were performed more frequently. 86 of them targeted the institutions accommodating the elderly. According to the inspection findings, 27 homes for the elderly failed to employ the sufficient number of social workers, physiotherapists and nurses, whereas family homes and legal entities providing accommodation services mostly lacked nurses and caretakers. Taking these data into account, one could question the quality of the care these institutions are providing to the elderly, especially to the persons accommodated in the wards for the seriously ill and the immobile. In the county-run homes the number of persons per room was found to have exceeded the prescribed standards, whereas 16 accommodation service providers were providing services without a license and were issued a ban.

The provision of social housing to the elderly adjusted to their needs is to be treated as a priority within the social welfare system

In one of the county-run homes for the elderly the residents were charged with a blanket sum of HRK 120 for the use of ventilators in the summer period. In spite of the Ombudswoman's recommendation to do so, the home's administration did not terminate this practice. The MSPY performed an inspection and ordered that the temperature in the residents' rooms be regulated in such a way so as to meet the standards prescribed by the Ordinance on the Minimal Conditions for the Provision of Social Services and that the residents can be charged for the use of air-conditioning only if they wish to cool their rooms to a temperature below the



prescribed one. It needs to be noted, however, that according to the Ordinance in question, in the periods of very hot weather the temperature in the residents' rooms is required to be only five degrees lower than the external one.

The persons providing non-formal care to the elderly, most commonly their spouses or children, need to receive a greater level of state support. They should be provided with the possibility of taking paid time off from work or be given a status of paid caretakers with salaries and benefits covered by the state. They should also have access to psychological support. The introduction of measures such as these would enable the elderly to remain in their own homes for as long as possible, which we discuss in more detail in the chapter on age-based discrimination.

The problems of the elderly persons in need of social housing are covered in more detail in the relevant section of this report. Here we would like to stress the importance of the inclusion of the specific characteristics and needs of the elderly population in the strategic and the implementation programs within the social welfare system (such as, for example, the Program for the Implementation of the Strategy to Combat Poverty and Social Exclusion 2014-2016). It is a necessary step if the provision of social housing to the elderly adjusted to their needs is to be treated as a priority within the social welfare system.

RECOMMENDATIONS:

67. To the Ministry of Social Policy and Youth, to increase the number of services Counselling and Assistance and Assistance at Home for elderly persons, within the network of social services, ensure the accessibility of these services in the entire territory of Croatia and include Half-Day and Full-Day Stay in the network of social services according to the actual needs of elderly persons;
68. To the Government of the Republic of Croatia, to introduce state support for elderly persons without a pension or other income;
69. To the Ministry of Social Policy and Youth, to, develop and improve the system of social services for elderly persons, especially non-institutional services, in cooperation with regional self-government units and the City of Zagreb;
70. To the Ministry of Social Policy and Youth, to introduce monitoring of the implementation of the maintenance-for-life/until-death contracts and continue organizing training sessions for the experts as well as targeted counselling for the elderly citizens on the potential negative effects of such contracts;
71. To the Ministry of Social Policy and Youth, to amend the Social Welfare Act to include a provision preventing social services providers, their employees and family members from entering into maintenance-for-life/until-death contracts;
72. To the Ministry of Justice, to amend the Civil Obligations Act to include stronger protection mechanisms for the beneficiaries of the maintenance-for-life/until-death contracts, especially a register of the maintenance providers under such contracts;



3.9.2. Pension Insurance

“I submitted a request for a pension to the Croatian Pension Insurance Institute in April 2015. Subsequently, I called several times in an attempt to find out in what stage of the procedure my request was. However, the first employee that would answer the phone would advise me to call a different number where, even after a dozen calls, nobody’d pick up. This has been going on for almost six months now. In the meantime, in order to be able to pay the bills, I was forced to borrow money from friends and family but I cannot continue doing that. Apart from the new debts, we are also paying off a loan for our apartment and the fact that my request has not yet been decided on and that I am not receiving my pension is making the situation even more difficult.”

According to the Croatian Pension Insurance Institute’s (hereinafter: CPII) data, in December 2015 the number of insured persons, 1.228.020 of which were pension insurance beneficiaries, stood at 1.4 million. The average pension after taxes in the same period amounted to HRK 2.237, 48.55% of the beneficiaries were receiving below-average pensions, whereas the lowest pensions were received by 17% of them. These citizens lack the financial resources to cover their most basic needs, such as housing, utility services and health care, and can certainly be considered a vulnerable social group at risk of poverty. Retired citizens with such meager resources are having a very difficult time making the ends meet.

The aging of the population caused by the longer life expectancy, a lower population growth rate and a lower employment rate causes imbalances in the pension system based on the principle of inter-generational solidarity. The pension insurance system should serve the purpose of improving the position of the retired citizens and ensure pensions in the amounts adequate for the fulfilment of their needs. A stable and efficient system is necessary if the appropriate quality of life of the elderly is to be achieved and the risk of poverty reduced.

The new Pension Insurance Act (hereinafter: PIA) came into force on 1 January 2014 and was already amended and its implementation postponed twice in the course of 2015.

The greatest amount of backlash was caused by PIA’s provisions according to which the pensions of beneficiaries obtained under special regulations were divided into two parts: the part acquired under a special regulation and the part acquired according to the period of pensionable service. The provisions in question provoked the dissatisfaction of several groups of beneficiaries, most prominently the Homeland War veterans. Their periods of pensionable service are generally shorter in comparison with those of the general population and they were concerned that the new regulation would reduce the amount of their pensions. The fact that the provisions of the new law altered the acquired rights of some of the beneficiaries and the



fact that the two sections into which their pensions were now divided were to grow at two different rates were additional reasons for criticism.

According to the European Commission 2015 Pension Adequacy Report, the main purpose of pension policy is to provide people with income in old age that allow them a decent living standard and protect them from poverty.

A pension is the beneficiary's personal right based on the fulfilment of the conditions prescribed by the law. Since its amount depends on various factors, such as the age and sex of the beneficiary, the period of pensionable service, the amount of the salary received during employment, and since the legal provisions regulating it changed from one time period to the next, the amount of the pension is calculated individually for each of the beneficiaries. Thus, it is not clear what criteria the legislator was guided by when establishing the conversion rates for the calculation of pensions in line with the new PIA or why those rates apply to groups of individuals and were not calculated for each of the beneficiaries individually. Especially low conversion rates were set for the Homeland War veterans and the widows of Croatian army members participating in the Homeland War. Contrary to our last years' recommendation, an impact assessment of the legal provisions in question on the veteran population was not carried out and the dissatisfied veterans and army members' widows subsequently filed a request for their constitutional review.

One of the topics of public debate in the course of 2015, capturing the interest of both the citizens as well as the experts, was the compulsory pension insurance based on the citizens' capitalized savings managed by the pension funds established for that purpose. The funds in question hold over HRK 70 billion in citizens' savings. Therefore, any changes introduced into this system or any use of the assets in question for investment purposes need to be fully transparent. The citizens must be provided with clear explanations regarding the importance of the pension funds, the structure of the funds' yield (i.e. of the payments and investments) as well as their future impact on the pensions.

In the course of 2015 the Ombudswoman received 119 complaints related to the area of pension insurance - 21 more than in the preceding year. The citizens complained about not being able to exercise the right to pension insurance, the duration of the proceedings related to the acquisition of the status of a retired person or to the calculation of the amount of their pensions, the protracted duration of second-instance proceedings and of the proceedings related to the pensions acquired/used abroad, the failure of the competent body to determine the provisory amount of pension to be paid out to the beneficiary before the final amount is calculated, the suspensions of the payments of pensions to the beneficiaries living abroad as well as about the manner in which the amount of their pensions were calculated.

The number of the complaints related to the implementation of bilateral social insurance agreements filed by the citizens residing abroad has been reduced in 2015, as has been the number of those related to the non-payment of pensions to the citizens, mostly with foreign



residence, who either do not possess the personal identification number of who failed to deliver it to the CPII.

RECOMMENDATIONS:

73. To the Ministry of Labor and the Pension System, to carry out an impact assessment of the provisions of the Pension Insurance Act pertaining to the division of the pensions of certain beneficiaries into the part acquired on the basis of the special regulations and the part based on the period of pensionable service and issue an instruction for the implementation of the PIA based on its findings or amend the PIA;
74. To the Ministry of Labor and the Pension System, to carry out an analysis of the anticipated effects of the pension insurance based on the citizens' capitalized savings on the amounts of pensions of the future beneficiaries and make its findings publicly available prior to introducing any changes into the existing pension system;
75. To the Croatian Pension Insurance Institute, to observe the legal deadlines when deciding on the rights stemming from the pension insurance system and on appeals and to provide more detailed grounds for its decisions;

3.10. AGE-BASED DISCRIMINATION

When it comes to the quality of life of the elderly, the Global Age Watch Index ranks Croatia as 61st on the scale of 96 countries from around the world. This fact points to the conclusion that additional efforts need to be made so that the members of this age group could enjoy an equal status in the society – a goal that can be achieved by providing them with equal access to the labor market, health care adjusted to their needs, lifelong education, organized institutional, non-institutional and non-formal care, adjusted traffic infrastructure and public transport, social inclusion, as well as goods and services in line with the principles of universal design.

In the course of 2015 we received complaints of the citizens belonging to all age groups indicating age-based discrimination. However, the respect for the human rights of the elderly persons in residential care was identified as one of the most prominent issues. In order to investigate it in more detail the Office of the Ombudswoman joined the project “The Human Rights of Older Persons and Long-term Care” organized by the European Network of National Human Rights Institutions (ENNHRI). Through the project's activities – visits to the homes for the elderly and the interviews conducted with their residents and employees – we gained an insight into the behaviors or omissions which cause or have the potential to cause violations of human rights or age-based discrimination of the elderly persons in long-term residential care.

According to the Global Age Watcha Index, Croatia ranks 61st on the scale of 96 countries, when it comes to the quality of life of the elderly.



The standards and the types of the services provided differ across the various types of institutions for the accommodation of the elderly. As a general rule, privately owned homes provide better accommodation conditions and charge higher fees but without any hidden costs. On the other hand, the state and the county-run homes (public homes) charge less for their services and their work is subject to more rigorous supervision by the state. The fees influence the demand. Thus, 17.000 persons are waiting to be admitted into one of the public homes, whereas, due to the fact that the impoverished elderly citizens and their families cannot afford to cover higher accommodation fees, 10% of the private homes' capacities are permanently vacant. However, it needs to be noted that public homes often charge additional, sometimes even substantial, fees for certain services without informing the residents of that fact or of the criteria on which these additional fees are based.

Regardless of the type of the institution, staff shortages are common. In 86 conducted inspections the MSPY found that the homes often do not employ enough social workers, physiotherapists, nurses and caretakers. Some employ their staff illegally, which directly affects the quality of the services provided. It is not uncommon for institutions to provide accommodation for residents without having previously obtained a license indicating that their facilities meet the minimum criteria for the provision of social services. Due to the mismatch between the demand and the number of vacancies in the public homes and the high fees charged by the private ones even institutions such as these manage to fill their capacities.

In 2015 we continued receiving complaints pertaining to the application of discriminatory criteria for the admission and release of beneficiaries into/from the homes for the elderly. At the end of the year a case was finally resolved of a complainant whose accommodation application was rejected by a home due to his suffering from a mental illness. After the Ombudswoman's warning, the individual in question was placed on the home's waiting list. Unless the competent physician has established the existence of health related counterindications, denying accommodation in a home due to an individual's mental illness constitutes legally prohibited discrimination.

The manner in which the waiting lists for accommodation into homes for the elderly are formed varies from one institution to the next. It is not uncommon for institutions to form separate lists for the different categories of beneficiaries (those accommodated on the basis of a CSW's decision vs. those accommodated on the basis of a contract between the institution and a beneficiary) or for different types of accommodation (accommodation in the residential part of the home vs. the accommodation in the ward for the seriously infirm and immobile residents). Often the citizens submit their applications to several different homes, which makes the monitoring of the pace in which their applications are being handled more difficult. It also decreases the transparency of the waiting lists and of the admission procedures, creating favorable conditions for discrimination of potential beneficiaries on various grounds.



In cases when the accommodation in a home is based on a contract between the institution and the beneficiary a prior written application, most commonly a standardized form, must be submitted to the institution. However, the application form does not have to be filled out by the potential beneficiary herself/himself. In certain cases application forms are filled out and contracts signed by other persons – most commonly family members or persons covering the accommodation costs. The practice in question places the elderly person in a position similar to that of the individuals deprived of their legal capacity and excludes her/him from participating in important decisions. It also opens the way for the placement of the elderly into institutions without their explicitly given consent or even against their will. However, the institutions have failed to recognize such a practice as a human rights violation and as potential discrimination on the grounds of age and economic status.

Despite the growing deinstitutionalization trend, the government has not taken any steps to strengthen the system of non-formal care provision to the elderly by adopting policies that would enable the caretakers to establish a better life/work balance. Although the provision of non-formal care does not generate any additional costs for the social welfare system, the needs

Although the provision of non-formal care does not generate any additional costs for the social welfare system, the needs of individuals taking care of their elderly, and often infirm, family members are generally still not legally regulated.

of individuals taking care of their elderly, and often infirm, family members are generally still not legally regulated. According to the available data, in the Republic of Croatia 17% of the population aged 35-49 provide care to their elderly family members. According to the European Commission, these numbers place Croatia above the EU average. In spite of that fact, there are no support mechanisms for the caretakers in place, such as a legally regulated caretaker status, adjusted working hours, the right to a paid or unpaid leave and to a sick leave to care for

an elderly family member, availability of professional assistance and support. As a consequence, these persons are left to their own devices and forced to use the services of unregistered service providers. The draft National Family Policy identifies the problem but envisages only the measures such as the development of the services in the community and the expansion of the services for the elderly provided by/in the local communities as potential solutions. However, the development of those measures is stunted by the ubiquitous lack of financial resources, which is especially pronounced in the rural communities with the insufficiently developed infrastructure. In these communities the lack of public transport connections to the larger towns represents an additional obstacle, since, in order to access the services, the elderly citizens are forced to cover the high costs of privately organized transport.

When it comes to the principles of universal design, the non-selective implementation of modern communication technologies by the state bodies creates obstacles for the elderly citizens, who are less skilled in using them and thus get excluded from the public life. For instance, the procedures of counseling with the interested public, an obligatory element of every legislative procedure in the Republic of Croatia, are conducted exclusively in the



electronic form and the Catalogue of the Rights and the Services Provided in the System of the Social Care for the Elderly is available only on the MSPY's web page. In order for this problem to be remedied, modern means of communication need to be combined with the more traditional ones.

Although the economic crisis, unemployment and the growing poverty rate have a negative impact on all social groups, the elderly citizens are especially affected. Often socially excluded and left to their own devices, they are common targets of scams and financial abuse. Approximately 550.000 of the retired citizens receive pensions in the amounts of less than HRK 2.000, out of which 92.000 in the amount of less than HRK 500. Pensions in the range between HRK 500 and 1.000 are received by 91.000 pensioners and those in the amount of HRK 1.000 to HRK 1.500 by 135.000 of them. Unfortunately, in certain cases the pension received by one of the family's members is the family's only source of income, stretched to fulfill all of its members' needs. We have encountered cases of families pulling an elderly person out of institutional accommodation without her/his consent only to be able to use their pension as the family's only income source. Faced with poverty and unable to meet their basic needs, elderly persons are at times forced to enter into unfavorable arrangements, such as the maintenance-for-life and maintenance-until-death contracts, which we discuss in more detail in the chapter on the social security of the elderly. Here we would like to mention an example of good practice - a public awareness-raising campaign undertaken by the Croatian Pensioners' Trade Union and the Government Office for Human Rights and the Rights of National Minorities aimed at informing the elderly on the dangers of financial abuse.

With an income that fails to cover their living costs, some of the retired persons make a decision to re-enter the labor market. They often engage in illegal working arrangements, do not receive any employment-related benefits and are paid below-average salaries.

The elderly are not the only age-group affected by age-based discrimination. It is also often experienced by the young members of the society. Setting an age limit as one of the conditions for the access to goods and services is a common practice. For example, the City of Zagreb's Decision on Scholarships Awarded by the City stipulates that in order to apply for the scholarships the candidates must be under the age of 25. Although the Act on Scientific Activity and Higher Education prescribes the equality of all candidates in the access to higher education and sets no maximum age limit for the acquisition of the status of a full-time student, the Decision in question eliminates from the procedure all persons over the age of 25, even if they meet all of the other set criteria. An individual's age is no obstacle to achieving educational excellence. Also, students starting their university education later in life often have objective reasons for doing so. Thus, placing persons over the age of 25 in a less favorable position in comparison with other individuals in a comparable situation solely because of their age may amount to discrimination. The aforementioned Decision sets unjustified age-related criteria for high-school and PHD scholarships as well. High-school scholarships are, thus, awarded to third



and fourth grade high-school students under the age of 18, despite the fact that, under the law, one can enroll into the first grade of high-school as a full-time student up to the age of 17.

17-19% of the total youth population are in the NEET (Not in Employment, Education or Training) status and are facing complete social exclusion. Additionally, youth employment measures often target highly educated young people with highest chances of finding employment, thus excluding those with lower levels of education, especially if they live in small communities with limited access to employment opportunities.

RECOMMENDATIONS:

76. To the Ministry of Social Policy and Youth, to invest additional efforts, in cooperation with the counties and the City of Zagreb, to introduce transparent waiting lists for the admission of the residents into the state and the county-run homes for the elderly;
77. To the Ministry of Social Policy and Youth, to define the basic and the additional services offered by the state and the county-run homes as well as the tariffs for the latter, in cooperation with the counties and the City of Zagreb,;
78. To the Ministry of Health and Ministry of Social Policy and Youth, to normatively regulate the support and assistance provided to the elderly by their family members within the system of non-formal care;
79. To the City of Zagreb, to remove from its Decision on Scholarships Awarded by the City the unjustified age-related application criteria for the high-school, university and PHD scholarships;

3.11. SOCIAL WELFARE

Rights in the social welfare system

"I am the father of two young children. I am employed, but sick and I work as a security officer on a building site. In the past 24 months, for 14 months I did not receive my salary and I am living off child benefit of HRK 596.00, my wife is unemployed, we don't have a car or any property, we are living in a state-owned house. I applied to the Social Welfare Centre. They told me that I would receive help, but it would take 2-3 months... Since I have not been paid since July 2014 my debts have piled up and I have no way of getting my children through school - transport, food, clothes and shoes. I asked the Social Welfare Centre to help me with a one-off payment of HRK 2,000.00. The Centre did not approve my request because I was in the process of resolving the guaranteed minimum benefit... I applied to the municipality where I live for recognition of housing benefit, under Article 41 of the Social Welfare Act. I have not received any decision, so I appealed to the competent county..."



According to the latest statistics, the at-risk-of-poverty rate, after social benefit transfers, is 19.4%. A total of 29.3% are at risk of poverty and social exclusion, whilst 13.9% live in conditions of severe material deprivation, because they are unable to meet their basic needs. For the unemployed this rate is a high 43.2%, for pensioners 18.9% and for other inactive persons 31%. In order to reduce poverty and social exclusion, the Strategy to Combat Poverty and Social Exclusion of the RC (2014-2020) was adopted, under which the RC is working to reduce the number of people at risk of poverty by 150.000 by 2020.

The guaranteed minimum benefit (GMB), which was meant to improve the status of socially at-risk people, has not shown positive results for those incapable of work, nor for the unemployed or single parents and one-parent families, or their children. The Social Welfare Act of 2013 prescribed that those unemployed who are capable of work may receive the GMB for a maximum of two years, and after that they can file a new request with the competent social welfare centre only after three months. The intention of this rule was to encourage passive beneficiaries of the GMB to become active in seeking employment, but since this did not produce results, at the end of December 2015, it was deleted by an urgent procedure, so that this right would not be abolished for 40.000 beneficiaries who did not find work. Also, since those able to work and those unable to work should not receive the same amount of GMB, for a single person unable to work it was increased by 15%, but unfortunately this increase does not relate to members of a household who are unable to work. So the equivalence scale is still in question, due to the inequality between beneficiaries of the GMB who are incapable of work, depending on whether they are single or members of a household. It is not disputed that single people need a higher amount of support, and they are entitled to 100% of the base, but since the amount for single people incapable of work was increased by 15%, the amount should also be increased for members of a household who are incapable of work, from 60% to 75% of the base.

The level of the base should be equal for all social benefits, and it should be linked to previously prescribed criteria, which would be a condition for changing it.

In preventing the extreme poverty and social exclusion of beneficiaries of social welfare, establishing the amount of the base for social benefits should be linked to the cost of living, the average monthly net salary paid for those employed by legal entities or by some other appropriate amount, which would lead to a change in the amount of the base. The fact that two different bases exist is not good, one for the GMB (HRK 800,00) and the other, which has not changed for many years, for other social benefits (HRK 500,00).

Receipt of a regular salary and filing a request for the GMB should not be a reason for the refusal of a one-off benefit. Moreover, resolving requests takes a long time, due to the burden on the centres of a large number of procedures instituted ex officio. In addition, during the procedure for recognition of a long-term right, no individual plan of care is drawn up in cooperation with the applicant and members of the family. As a result, the Ministry of Social Policy and Youth should send social welfare centres instructions to enable them to respect the



principle of an individual approach, active participation by the party and the freedom of choice and participation in decision-making.

The statutory provisions on one-off benefits are applied unevenly, and refusal is justified by a lack of resources, which is clearly the result of inadequate planning. Social welfare centres often also require the prior consent of the MSPY for approval of an increase in one-off benefit, although these are cases of especially difficult situations for those households. According to figures from MSPY, up to October 2015, 69.823 one-off benefits were approved, of which only 1.298 were increased, that is 1.85%. Since they are not approved for the partial repair of a damaged apartment/house in which the beneficiary lives, in the next amendments to the Social Welfare Act, these needs should be added to especially justified cases.

There are still frequent problems concerning recognition of benefits for housing costs, especially due to the lack of harmonization of the general acts which units of local self-government adopt pursuant to the SWA. A case was recorded where a municipality adopted a general act which set a lower amount for the benefit than was prescribed by the SWA, and it was awarded one-off and not monthly. After our recommendation, the State Administrative Office in the county undertook an inspection so the municipality harmonized the act with the SWA.

At a time when the economic crisis is still present, and when there is a large number of impoverished and socially excluded people, the MSPY and the state administrative offices in the counties are not using all their powers to encourage units of local self-government to implement the SWA and enable beneficiaries of the GMB, who are at the greatest risk of poverty, to exercise the right to assistance in meeting their housing costs. So, by conducting supervision of units of local self-government, the MSPY could halt the implementation of an unlawful general act, and in the state administrative offices in the counties, supervision should be conducted continually of the general acts of units of local self-government. Apart from the need for systematic control of these acts and the work of units of local self-government by all the competent bodies, officials in units of local self-government should be educated and given instructions for the correct implementation of the SWA. Connected with this, citizens are not sufficiently informed of their social welfare rights, especially regarding the right to housing benefit, and therefore they do not have equal access to that right.

The number of unresolved second-instance cases in MSPY has fallen, but still 2.163 of them were carried over to 2016. The deadlines for resolving second-instance cases in the field of social welfare have been shortened, primarily regarding the GMB and the status of parent-caregiver. In the area of family law protection, the deadline for resolving cases is still unacceptably long, from one and a half to three years, except for cases of deciding on a personal name, which are resolved within two to six months. Here, the second-instance body is obliged to decide on an appeal and send it to the party no later than 60 days from the day the appeal is duly lodged, and not from the day the case is received.



According to the latest statistics, the at-risk-of-poverty rate, after social benefit transfers, is 19.4%. A total of 29.3% are at risk of poverty and social exclusion, whilst 13.9% live in conditions of severe material deprivation, because they are unable to meet their basic needs. For the unemployed this rate is a high 43.2%, for pensioners 18.9% and for other inactive persons 31%. In order to reduce poverty and social exclusion, the Strategy to Combat Poverty and Social Exclusion of the RC (2014-2020) was adopted, under which the RC is working to reduce the number of people at risk of poverty by 150.000 by 2020.

The guaranteed minimum benefit (GMB), which was meant to improve the status of socially at-risk people, has not shown positive results for those incapable of work, nor for the unemployed or single parents and one-parent families, or their children. The Social Welfare Act of 2013 prescribed that those unemployed who are capable of work may receive the GMB for a maximum of two years, and after that they can file a new request with the competent social welfare centre only after three months. The intention of this rule was to encourage passive beneficiaries of the GMB to become active in seeking employment, but since this did not produce results, at the end of December 2015, it was deleted by an urgent procedure, so that this right would not be abolished for 40.000 beneficiaries who did not find work. Also, since those able to work and those unable to work should not receive the same amount of GMB, for a single person unable to work it was increased by 15%, but unfortunately this increase does not relate to members of a household who are unable to work. So the equivalence scale is still in question, due to the inequality between beneficiaries of the GMB who are incapable of work, depending on whether they are single or members of a household. It is not disputed that single people need a higher amount of support, and they are entitled to 100% of the base, but since the amount for single people incapable of work was increased by 15%, the amount should also be increased for members of a household who are incapable of work, from 60% to 75% of the base.

In preventing the extreme poverty and social exclusion of beneficiaries of social welfare, establishing the amount of the base for social benefits should be linked to the cost of living, the average monthly net salary paid for those employed by legal entities or by some other appropriate amount, which would lead to a change in the amount of the base. The fact that two different bases exist is not good, one for the GMB (HRK 800.00) and the other, which has not changed for many years, for other social benefits (HRK 500.00).

Receipt of a regular salary and filing a request for the GMB should not be a reason for the refusal of a one-off benefit. Moreover, resolving requests takes a long time, due to the burden on the centres of a large number of procedures instituted ex officio. In addition, during the procedure for recognition of a long-term right, no individual plan of care is drawn up in cooperation with the applicant and members of the family. As a result, the Ministry of Social Policy and Youth should send social welfare centres instructions to enable them to respect the principle of an individual approach, active participation by the party and the freedom of choice and participation in decision-making.



The statutory provisions on one-off benefits are applied unevenly, and refusal is justified by a lack of resources, which is clearly the result of inadequate planning. Social welfare centres often also require the prior consent of the MSPY for approval of an increase in one-off benefit, although these are cases of especially difficult situations for those households. According to figures from MSPY, up to October 2015, 69.823 one-off benefits were approved, of which only 1.298 were increased, that is 1.85%. Since they are not approved for the partial repair of a damaged apartment/house in which the beneficiary lives, in the next amendments to the Social Welfare Act, these needs should be added to especially justified cases.

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At a time when the economic crisis is still present, and when there is a large number of impoverished and socially excluded people, the MSPY and the state administrative offices in

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the counties are not using all their powers to encourage units of local self-government to implement the SWA and enable beneficiaries of the GMB, who are at the greatest risk of poverty, to exercise the right to assistance in meeting their housing costs. So, by conducting supervision of units of local self-government, the MSPY could halt the implementation of an unlawful general act, and in the state administrative offices in the counties, supervision should be conducted continually of the general acts of units of local self-government.

Apart from the need for systematic control of these acts and the work of units of local self-government by all the competent bodies, officials in units of local self-government should be educated and given instructions for the correct implementation of the SWA. Connected with this, citizens are not sufficiently informed of their social welfare rights, especially regarding the right to housing benefit, and therefore they do not have equal access to that right.

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is obliged to decide on an appeal and send it to the party no later than 60 days from the day the appeal is duly lodged, and not from the day the case is received.

Writing off/postponement of debt

Due to the large scale excessive debt of citizens whose accounts were frozen for a long period of time, the Government of the RC at the beginning of 2015 adopted a Decision to accept the Proposal of the Agreement on measures to alleviate the financial problems of some citizens who are enforcement debtors in procedures of forced payment of claims of low value from their financial resources. These measures are founded on a voluntary agreement with cities, banks, public enterprises, telephone companies and other creditors, who showed social sensitivity for the difficult situation citizens found themselves in, who were often in debt due to the many years of the economic crisis, and not only due to their own irresponsible behaviour. Since these measures were not prescribed by law or other regulations, but were founded on the principle of solidarity and voluntary action, they were also temporary and one-off in nature. The Government of the RC announced that the measures would encompass more than 60.000 indebted citizens, including the socially at-risk, unemployed and pensioners, and people with low income and persons with disabilities. Therefore this measure, in the first round, under criterion A, only related to beneficiaries of the GMB, maintenance benefit and personal disability benefit, whose accounts had been frozen for more than a year, with a debt registered in FINA of a total of no more than HRK 35.000,00, accumulated towards all creditors. The second round, under criterion B, related to all citizens whose monthly income over the previous three months before filing the application did not exceed HRK 2.500 for single persons, or HRK 1.250 for members of a household, and who did not own a second property, apart from the one they lived in, and who did not have any time deposit savings or housing savings, or any other liquid assets.

According to figures from FINA, of a total of 1.583 creditors (legal persons), 293 signed the Agreement, that is, banks, telephone companies, municipal companies, credit card companies, factoring companies and HRT for the subscription service. On 31 December 2015, there were 17.586 approved requests registered in FINA's register of written-off debts, that is, 69.9% of those received, of which 9.372 were category A debtors. In category B, FINA registered 8.214 approved requests, and MSPY 7.754, which shows that their statistics do not match. The most frequent reasons for refusing a request by a debtor in category B were the monthly income, then ownership of another property, or other assets, and time-deposit savings or housing savings.

Although the planned coverage was not achieved, these measures certainly alleviated the difficult financial situation of some over-indebted citizens.



Social housing

"According to the priority list for the allocation of apartments for rent, I was number one due to the members of my family... I visited all the competent bodies, but it was a case of broken, empty promises. I am a single mother and I have two young children to keep, and I pay HRK 1.100 rent for my apartment. I point out that my landlady cannot sign a contract for the lease of the apartment so I have to pay rent and bills for it from my social benefit and child benefit, which amounts to HRK 1,890, and that from next year the GMB will be only HRK 1,120 a month."

Citizens with modest incomes, after paying rent and other living costs, are left with very little to cover their basic needs, so frequently their leases are terminated and they are threatened with eviction, not only by private landlords, but also by public bodies, most often cities. In these cases they should apply to the social welfare centre for advice and assistance, as should beneficiaries of the GMB in order to exercise the right to housing benefit or social housing, if they live in the area of a major city or county centre. Unfortunately, despite their obligations

It is necessary to resolve the problem of social housing in a systematic manner, to encompass all socially at-risk vulnerable groups.

under the SWA, most of these cities, and also the counties, do not take care of beneficiaries of the GMB with social housing, and the MSPY does not monitor the implementation of this obligation, although it is obliged to do so. For the sake of equal access to the right to a social apartment throughout the entire territory of the RC, in the next amendments to the SWA the obligation of the provision of social housing to beneficiaries of the GMB should be extended to all units of local self- government.

In the Strategy to Combat Poverty and Social Exclusion, and in the Implementation Programme of the Strategy, it was planned to adopt a Programme to draw up a housing model, but not until the fourth quarter of 2016. However, when creating the Implementation Programme of the Strategy, the elderly were not included in the target groups for social housing. For many years there has been a delay in the adoption of a Social Housing Strategy which should develop and unite all forms of provision of housing, which are now realized in several systems. Without a well thought out and targeted housing policy, including and providing for the elderly, this problem will become increasingly complex. Although in 2015 a Working Group was formed to draw up a proposal for a Housing Act, no foundation or any draft proposal of the act has been drawn up to be sent for further procedure. It is necessary to resolve this problem in a systematic manner, where it will be necessary to take into account the important documents on housing policies at the European level, such as the European Housing Charter of 2006, the Geneva UN Charter on Sustainable Housing 2015, UN HABITAT, and the loans programme of the Council of Europe development bank - the CEB and EU funds.



The homeless

In the RC in 2015 there were 14 shelters for the homeless, in Dubrovnik, Karlovac, Kašteli, Osijek, Pula, Rijeka, Split, Šibenik, Varaždin, Zadar and Zagreb, although they should be opened by all major cities and county centres. Apart from by cities, shelters/dormitories are also founded by NGOs, humanitarian and religious organizations, and the total capacity of the accommodation is 430 beneficiaries. In order to improve care for the homeless, in 2015 the MSPY approved financial support of HRK 2,083,104 for 14 NGO projects dealing with the protection of the homeless. In 2015, coordinators were appointed who are responsible for developing welfare policies for the homeless in counties and major cities, or county centres. However, there is no information on cooperation between social welfare centres, major cities and shelters/dormitories, and whether they provide them with joint activities and recognition of social welfare rights to meet basic needs, social housing etc., or on the number of homeless people integrated into the local community. However, it is interesting that in seven shelters/dormitories 33 homeless people are accommodated who are beneficiaries of assistance and care benefit, and three are beneficiaries of personal disability benefit. It is questionable whether shelters are even able to provide a social service to the homeless who are dependent on the care of another person or who have severe health problems. It can also be asked why the social welfare centres have not taken adequate care of these people.

The term "homelessness" has not been defined in accordance to the ETHOS classification, and no social housing has been provided to them, apart from the temporary one in shelters/dormitories.

It is also worrying that a large number of homeless people are in shelters for many years, and that young people who were previously in children's homes frequently end up in shelters. The SWA prescribes that a homeless person staying in a dormitory has the right to GMB in contrast to those accommodated in a shelter, which means that the latter do not have equal access to social welfare rights, instead of all those who are without income exercising the right to GMB.

It is necessary to adopt a National Strategy on Homelessness and a Protocol on procedures concerning the homeless.

Social welfare centre records show that a small number of homeless people apply to them, whilst NGOs and religious and charitable organizations indicate rising numbers, especially of young people, women and Homeland War veterans. Since figures are not kept using the same criteria, and differ according to whether they are kept by the MSPY or the civil sector, it is necessary to undertake a comprehensive analysis of the data of all stakeholders who deal with the problem of and accommodation for the homeless. Moreover, it is also necessary to redefine the term "homelessness" according to the ETHOS classification (without a roof, without a house/flat, living in insecure housing, living in inadequate housing), which would contribute to their social inclusion.



For the systematic resolution of this problem, it is necessary to adopt a National Strategy on Homelessness, regional/local strategies and a Protocol on procedures concerning the homeless, which would define the obligations of the competent bodies and other stakeholders and the forms, manner and content of their cooperation.

Young people in alternative forms of care

Beneficiaries of children's homes older than 18 and younger than 21 (young adults), in the process of becoming independent, have the right to the social service of organized housing with occasional support, as well as counselling and assistance after leaving care. Young adults have the right to accommodation in homes and organized housing up to 21 years of age. On 31 December 2015, children's homes, centres for the provision of services in the community and family homes were providing social services for 119 young adults, and in the course of 2015 for 216, of whom, according to the available figures, 37 found work, 12 continued their education, nine were provided with other social services, and three exercised the right to a benefit for regular studies.

Empty apartments for organized housing should be used to accommodate beneficiaries of regular study benefits and young people from alternative forms of care up to 26 years.

Recognition of the right to a benefit for regular studies ends the right to accommodation, that is, organized housing, which is unacceptable. At the same time, only 40 of the total 83 places were filled in apartments in which the service of organized housing is provided for young adults. The reasons for these vacancies are most often the lack of beneficiaries older than 18, the health problems of those who meet the age requirement, as well as the adaptation of apartments in which the service is provided. In view of the fact that after reaching the age of 21 and leaving the home, young people increasingly tend to end up in shelters for the homeless, the vacancies in the apartments should be used to accommodate them up to the age of 26 if they are unemployed or if they are unable to ensure some other appropriate accommodation.

RECOMMENDATIONS:

80. To the Ministry of Social Policy and Youth, through amendments to the Social Welfare Act:

- to increase by 15% of the base the amount of GMB for members of households who are wholly incapable of paid work;
- to introduce arrangements and changes to the amount of the base for social benefits with previously established criteria;
- to prescribe the same base for all types of social benefits;

81. To the Ministry of Social Policy and Youth, to send instructions to units of local self-government on the correct application of the Social Welfare Act to achieve an equal approach to the right to housing benefit;



82. To social administrative offices in the counties, to conduct regular supervision of the general acts of units of local self-government in the field of social welfare and to undertake other activities within their competence;
83. To the Ministry of Social Policy and Youth, in undertaking administrative supervision of units of local self-government, to halt the implementation of unlawful general acts;
84. To the State Office for Reconstruction and Housing Care and the Ministry of Social Policy and Youth, to begin work on an act on social housing to encompass all socially at-risk and vulnerable groups;
85. To the Ministry of Social Policy and Youth, through amendments to the Social Welfare Act, to define "homelessness" in line with the ETHOS classification, and to grant the homeless in shelters the right to GMB;
86. To the Ministry of Social Policy and Youth, to prepare a National Strategy on Homelessness and a Protocol on procedures with the homeless;
87. To the Ministry of Social Policy and Youth, to prescribe in amendments to the Social Welfare Act the possibility of accommodation in organized housing for young people from alternative forms of care up to the age of 26 years, and that beneficiaries of regular study benefit do not lose their right to accommodation;

3.12. ENERGY POVERTY

"If over 10% of European households cannot afford to heat their homes properly, we must do more. If pensioners have to sleep in the kitchen, because this is the only warm place in the house; if children cannot do their homework because their family was disconnected from electricity, or if people fall sick or die early because they cannot heat or cool their homes, then our efforts clearly have not been enough."

Maroš Šefčovič, EU Commission Vice-President for Energy Union

At present there is no generally accepted definition of energy poverty nor a unique set of criteria for the acquisition of the status of the vulnerable energy consumer. However, it is clear from the existing definitions that this concept does not always completely and unequivocally overlap with the concept of poverty used in the general sense.

According to the data collected by the Croatian Bureau of Statistics, in 2014 in the Republic of Croatia 9.7% persons lived in the households without adequate heating, 29.1% persons were unable to cover their utility bills regularly in the past 12 months, 66.3% lived in the households heavily burdened by their total housing costs, whereas only 2.4% did not feel their total housing costs were putting a strain on their household budgets. If a more accurate picture of the levels of energy poverty experienced by the country's population is to be drawn, the aforementioned



data ought to be combined with additional indicators related to the housing conditions (e.g. problems with excess humidity or mould), energy efficiency of the housing objects as well as the number, age and health of the household members and their participation in the social life of the community. However, despite the fact that the Social-Action Plan on the Understanding of the Social Aspects of the Energy Union adopted in March 2013 tasked the Ministry of Economy with determining the indicators for the monitoring of the levels of energy poverty and the institutions responsible for data collection, that has not been done so far.

Partial progress has been made with the adoption of the Regulation on the Criteria for the Acquisition of the Status of a Vulnerable Consumer of the Energy Supplied via the Transmission/Distribution Networks and the Regulation on the Amount of the Monthly Subsidy Paid Out to the Vulnerable Consumers of Energy Products, the Manner of the Realization of the Subsidies and the Commitments of the Competent Social Welfare Centers, which established the criteria for the acquisition of the status of the vulnerable energy consumer and defined the mechanisms and measures for their protection.

However, granting this status only to the beneficiaries of the Guaranteed Minimum Benefit and the Personal Disability Benefit and members of their households leaves unprotected other categories of persons with disabilities, persons with special needs and those of ill health whose life or health might be endangered if their power supply were to be limited or cut off and who, according to the Energy Act (hereinafter: EA), should also be eligible to receive such a status. Despite our last year's recommendation for the competent bodies to expand the right to the acquisition of the vulnerable consumer status to the beneficiaries of the Assistance and Care Benefit, it has not been done. According to the regulations presently in force, the status of the vulnerable consumer can be acquired by the consumers of electrical energy, gas and heating.

On the basis of that status they are eligible to receive state subsidies covering a portion of their energy supply costs. However, the only subsidies currently legally regulated and paid out to the vulnerable consumers are those for the coverage of the electricity costs. It is still unclear in what manner the state intends to provide assistance to the vulnerable gas and heating consumers. This is an important question taking into account the regional differences in the consumption of various energy products in the Republic of Croatia as well as the fact that electricity is not the most commonly used form of energy in all parts of the country, especially when it comes to providing heating for the households.

According to the MSPY data, in the first three months of the implementation of the regulations discussed above 65.102 beneficiaries received the status of vulnerable energy consumers and were granted with subsidies in the monthly amount of up to HRK 200.00. The total amount of expenditures for the subsidies amounted to HRK 28.106.217,78. The highest portion of that sum was paid out to the beneficiaries residing in the City of Zagreb and the lowest to those located in the Lika-Senj County.



The EA guarantees the social minimum of energy consumption to the persons in unfavorable social situation, depending on their living conditions and the number, health status and the economic status (not specified in any detail in the EA) of their family members. However, some of the vulnerable energy consumers are unable to reach this level of consumption despite the available subsidies due to their previously incurred debts. At the moment of the writing of this report their situation was still unresolved.

The MSPY has pointed out that being granted with the vulnerable energy consumer subsidy does not exclude the possibility of simultaneously receiving the subsidies for the cost of firewood and the housing costs from the local self-government units. Nevertheless, due to the shortcomings in the implementation of those benefits, which we discuss in more detail in the chapter on the rights granted within the social welfare system, they do not provide a significant contribution towards a holistic solution for the problems faced by the vulnerable energy consumers.

Under the Regulation on the Criteria for the Acquisition of the Status of a Vulnerable Energy Consumer the subsidies granted to the vulnerable consumers are financed through an electrical energy price increase imposed on all end-consumers. This is a poor solution since it places additional burden on the socially vulnerable citizens. Moreover, it opens the way for the similar future regulation of the gas and heating subsidies, which might lead to an exacerbation of energy poverty instead of ameliorating it.

In 2015 the Government of the Republic of Croatia adopted the Regulation on the Criteria for the Acquisition of the Status of the Protected Gas Consumers in Crisis Situations. However, contrary to the provisions of the EA and the Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity, it failed to adopt the equivalent legislation to regulate the status of the protected electrical energy consumers and introduce measures for their protection.

Energy poverty affects not only the beneficiaries of the social welfare benefits but other categories of the population as well. Thus, the criteria for the acquisition of the status of the vulnerable energy consumer need to be expanded accordingly. Also, keeping in mind the fact that preserving energy is the best way to cut the energy costs, additional measures for the amelioration of energy poverty need to be introduced, most importantly those aimed at enhancing the energy efficiency of the housing objects inhabited by the households affected by energy poverty. In that sense, the Directive 2012/27/EU of the European Parliament and the Council stipulates the duty of the states to provide access to energy efficiency to the vulnerable consumers and envisages the possibility of priority implementation of some its measures in the households affected by energy poverty. The same has been foreseen in the EA. However, although the adoption of the subordinate legislation intended to regulate these matters in more detail was planned to take place by February 2015 it had not been passed by the moment of the writing of this report.



According to the data provided by the Environmental Protection and Energy Efficiency Fund, in 2015 the highest proportion of the government grants it distributes (9.300 in total) were received by family home owners to be used for the energy retrofits of their housing objects. Most of the grant recipients inhabited the areas of special state concern, followed by those inhabiting the 1st category islands, the hillside and mountain regions and the 2nd category islands, while the lowest amounts of grants were received by the home owners in other regions of the country. The justification behind this type of distribution is the retention of the population in the areas affected by mass emigration. However, it needs to be noted that giving priority to the households more intensely affected by energy poverty has not been foreseen as one of the criteria for the allocation of the grants in question. Additionally, the analysis of the data on the operation of the Fund shows that most of its communication with the (potential) beneficiaries is being carried out via e-mail – a communication means largely unavailable to those whom the energy efficiency measures should primarily target. The Fund should adopt a targeted approach to various groups of its (potential) beneficiaries and invest greater efforts into educating the citizens on the importance and the benefits of energy efficiency.

The topic of energy poverty is further discussed in the chapter on reconstruction and the provision of housing and the chapter on utilities and other public services.

RECOMMENDATIONS:

88. To the Ministry of Economy, to determine the indicators for the monitoring of energy poverty and the institutions responsible for the collection of the relevant data;
89. To the Ministry of Economy and the Ministry of Social Policy and Youth, to draft amendments to the Regulation on the Criteria for the Acquisition of the Status of a Vulnerable Consumer of the Energy Supplied via the Transmission/Distribution Networks, to expand the criteria for the acquisition of the vulnerable consumer status;
90. To the Ministry of Economy and the Ministry of Social Policy and Youth, to introduce subsidies for the vulnerable consumers of gas and heating;
91. To the Ministry of Economy, to adopt a regulation on the status and rights of the protected electrical energy consumers;
92. To the Ministry of Economy, to adopt the ordinance foreseen by Article 13 paragraph 5 of the Energy Efficiency Act as well as other implementing regulations required for the implementation of those energy efficiency measures that are aimed at achieving social goals and which give priority to the vulnerable energy consumers;
93. To the Ministry of Economy and the Environmental Protection and Energy Efficiency Fund, taking into account the regional differences and putting an emphasis on the protection of the rural areas, to introduce measures and initiatives aimed at informing and educating the citizens, especially those affected by energy poverty, about the benefits of energy



efficiency and to put a special focus on empowering the regional and local self-government units and encouraging their participation in those activities;

94. To the Ministry of Economy and the Environmental Protection and Energy Efficiency Fund, to render both the information as well as the procedures related to the realization of the right to subsidies simple and available to all citizens affected by energy poverty, both in terms of the communication channels they utilize in the communication with the citizens as well as in terms of the complexity of the administrative procedures;

3.13. UTILITIES AND OTHER PUBLIC SERVICES

Providing the conditions for the fulfillment of the local population's basic needs is one of the regional and local self-government units' main tasks whereas the level of effort they are willing to invest in its performance works as the best indicator of their attitude towards the citizens.

When it comes to utilities and other public services, the problems most commonly cited in the citizens' complaints submitted to the Ombudswoman refer on the one hand to the mixed and the biodegradable communal waste collection fees, i.e. the fact that in many areas of the country these are still not being calculated and collected in the manner prescribed by the Sustainable Waste Management Act (hereinafter: SWMA), and to the gaps in the access to public services on the other.

"...according to this bill, for the current month (which has just started) I am being charged for 8 instances of waste collection, each one for 120 liters of waste. Taking into account the fact that the month has just begun, this bill was most certainly not based on the actual quantity of communal waste collected from the customers. The calculation is, again, based on a fictitious amount of waste...whereas this month, once more, I will not produce any and no actual amount of waste will be collected from me."

The manner in which the mixed and biodegradable communal waste collection fees are being calculated and collected varies from one local community to the next due to the fact that not all service providers implement the "polluter pays" principle as well as the fact that the calculations are not being based on the volume of waste actually produced. In one of the cases we encountered the amount of the waste collection fee was based on the amount of water consumed per month. Even in cases when the fee is calculated depending on the volume of the waste produced or on the holding capacity of the waste bin and the frequency of waste collection service providers still use predetermined amounts and figures as the bases for the calculations. Simultaneously, they often disregard the legal provisions obliging them to keep records on the actual amounts of waste collected from each individual customer. These types



of practices put single-person households and the elderly, who produce significantly smaller amounts waste than those they are being charged for, as well as the owners of uninhabited apartments and houses, holiday apartments and weekend cottages in an especially unfavorable position. In the course of 2015 in certain cases the practices in question resulted in inspections and administrative disputes. The situation, however, remains unchanged and might have the effect of discouraging the citizens from behaving in an environmentally friendly manner.

The Government has still not adopted the regulation foreseen by Article 29 paragraph 10 of the SWMA, which, among other issues, will regulate the structure of the waste collection fees as well as the manner and the conditions for its calculation and which is intended to be used as a base for the local self-government units' decisions regulating this area. In our last year's recommendation, we urged the Ministry of Environmental and Nature Protection to adopt the document in question, in line with the judgements of the High Administrative Court.

As mentioned before, in addition to the calculation and collection of the utility fees, the citizens are also experiencing issues related to the territorial discrepancies in the access to utilities and other public services. The access gaps are particularly pronounced in the rural and the intermediate regions of Croatia, which, according to the data collected by the Croatian Bureau of Statistics house 45.8% of the country's total population (or twice the European average). These areas are especially affected by problems such as the aging of the population, poverty and emigration. Due to the restricted financial resources available to them, rural/local self-government units are not able to fulfill the needs of their populations - most notably, of the vulnerable groups such as the elderly, children, the youth, members of national minorities, women and persons with disabilities.

The complaints submitted to the Ombudswoman indicate that services such as water supply, public transportation, the maintenance of uncategorized roads as well as electricity, health and social welfare services are either unavailable or are unequally available to the inhabitants of the rural areas. The poverty of the rural populations, combined with their physical isolation caused by the inaccessibility of the utility and the social infrastructures, results in their social exclusion. In its recommendations to Croatia under the Universal Periodic Review procedure the UN's Human Rights Council stresses the importance of the provision of a balanced territorial coverage and accessibility of public services in these regions.

Circumstances such as living without electricity, drinking water or access to groceries, being forced to rely on privately owned vehicles which they often cannot afford to acquire, not being able to reach emergency medical aid due to the dilapidated state of the roads prevent the inhabitants of the rural communities from exercising their constitutional rights. A certain number of these citizens cannot afford to cover their utility costs. To others public utilities are unavailable because their local self-government units fail to provide access to them despite the legal obligation to do so.



Citizens often submit their complaints to the Ombudswoman after they have already contacted their regional/local self-government units but did not receive a response or after they were promised a solution to their problem but were not provided with one. The responses we receive from municipalities, cities and counties reflect the different levels of their responsiveness to their citizens' needs. Most of them cite financial restrictions or unresolved legal issues as justifications for their failure to provide better quality or better organized public services. In certain cases they accept our recommendations immediately, while in others they do so only after being prompted by the Ministry of Public Administration. In any case, the regional/local self-government units need to provide their citizens with the possibility of submitting petitions and complaints related to their work and to respond within the legally prescribed time limits.

Living without electricity or drinking water, having to rely on privately owned vehicles, which they often cannot afford, in areas without access to groceries, which even the emergency medical aid vehicle cannot reach, due to the dilapidated state of the roads, prevents the inhabitants of the rural communities from exercising their constitutional rights.

Human rights of the inhabitants of the rural areas were one of the focal points of the Ombudswoman's work in 2015. In cooperation with the special ombuds she co-organized the conference titled "Far Away from the Cities – Far Away from Human Rights? Human Rights in Rural Areas". The issues encountered by the populations of the rural areas are additionally analyzed in the chapter on discrimination on the grounds of race, ethnicity, skin color or national origin as well as in the chapter on reconstruction and the provision of housing.

„After the war 11 houses were reconstructed! Two families had returned to their reconstructed homes and had lived in inhuman conditions! Without electricity or water supply, with a dilapidated road, without mail delivery...These people died without seeing their living conditions improve!! The rest of us only come in the summer! We fight the forces of nature; struggle with the mine fields, house break-ins, firewood thefts... Worst of all, we are fighting with the national electricity provider over how much “profitable” it would be to repair the power grid!...Economic profitability is not important here, our RIGHT to have the access to electricity is!”

The lack of access to energy is a topic that needs to be discussed within the context of energy poverty examined in the previous chapter. In the case quoted above none of the competent bodies on the state, regional or the local levels exhibited the willingness to solve the inhabitants' problems. Instead, each body directed the citizens to a different one, some of them asserting their incompetence in the case and others claiming that, based on the estimates in the feasibility study, the funds required for the restoration of the village's electricity



infrastructure were not proportionate to the current needs of its population. The bodies in question failed to take into account the actual purpose of the state's investment in the reconstruction of family homes, i.e. the fact that sustainable return of their owners is not possible without the necessary infrastructure. After an additional review of the case the national electricity provider (Hrvatska elektroprivreda – HEP) still has no intention of restoring and reconstructing the power grid in Divoselo, claiming that the costs of providing connections for only a small number of housing objects are simply too high.

On the other hand, a joint project undertaken by the Karlovac County, the Environmental Protection and Energy Efficiency Fund and the United Nations Development Program (UNDP) is an example of good practice. In the course of the project titled Electrification of the Rural Areas Using Renewable Energy Sources solar power systems were installed to provide electrical energy for five low-income rural households lacking access to electricity. In this way the inhabitants were provided with energy efficient access to electrical energy while simultaneously avoiding the high costs that a construction of a power grid for a small number of households would entail.

“The fact that during the school year two different bus lines are in operation – one for elementary school students and another one for high-school students and other passengers whereas during the months of June and August we are not even provided with a van is absurd... it is difficult for us to understand that anyone living in the 21st century, in an EU member-state with the functioning legal and social systems should be discriminated in this manner.”

The paragraph above is a quote from a complaint submitted to us by an inhabitant of one of the villages in the Karlovac County. The citizen in question complained about the inaccessibility of public transport in the rural areas, or more specifically, about the cancellation of the usual bus lines running through his village during the school holidays due to which its inhabitants were forced to rely on their own means of transport. Since the village is mainly populated by elderly inhabitants the described situation prevented many of them from visiting a doctor or undertaking the prescribed medical procedures. It also made it difficult for high-school and university students to participate in on-the-job trainings and leisure activities and, due to the fact that there are no shops in the village itself, it would leave the entire village without access to groceries. The inhabitants were forced to walk five or six kilometers to the next nearest bus station. They spent years petitioning the competent town and county bodies as well as the competent ministry to make public transport operational throughout the entire year, only to find their requests ignored. However, following our recommendation the Karlovac County introduced a new bus schedule providing bus lines throughout the entire year, including in the summer months.



A similar example comes from a municipality located in one of the areas of special state concern. For several years in cases of need the municipality provided transport for its inhabitants using its own vehicle but discontinued the practice due to the fact that the one vehicle was not enough to cover the needs of all the towns and villages on its territory. Since the roads are not maintained the local towns and villages are not visited by a nurse or by a mobile shop. The municipality lacks the financial resources to provide for its inhabitants' most basic needs. It can no longer cover the costs of the bus transportation subsidies for its citizens since, due to a small number of beneficiaries, they became exceedingly high nor can it fund the maintenance of the local roads. At the same time, the county has failed to provide any form of financial assistance.

The lack of public transportation isolates and paralyses the inhabitants of rural areas, and prevents them access to health and social services, labour market, education, cultural and other services.

“The municipality cannot afford to pave 15 kilometers of dirt road for the benefit of only 15 inhabitants of the average age of 60 or older.”

Following our visits to the Roma settlements the competent authorities implemented our recommendation to build a bus stop in a settlement from which approximately two hundred children were forced to walk two kilometres every day. In another settlement additional security measures were implemented at a rail crossing where accidents had previously frequently occurred.

Regardless of the financial constraints some of the regional/local self-government units are facing, the citizens must be provided with the access to the services aimed at the fulfilment of their needs and of their constitutional rights. In order to be able to do that, cities and counties need to cooperate and engage in inventive thinking. Furthermore, the central state is bound by the obligation to provide financial and administrative support to the local self-government units with smaller budgets, and especially by the obligation to secure a reliable network of public services available to all. The last point needs to be taken into account in the course of the planning of the announced reform of the regional/local self-government system and ought to be one of the indicators of its successfulness.



The Right to Water

“Other children at school call my son names because the T-shirt he uses in PE classes is never white and clean. It’s impossible for us to keep it that way. In the summer period I have no water supply; in winter the water is muddy (we use water from a well). Sometimes I feel like all the people in the street are staring at us because we don’t feel like normal people since we cannot bathe properly. I wash the bedclothes twice a year because it’s the last thing that other people can see. I try to wash our clothes; I wash it over and over again by hand. There are two cemeteries at a 500–1000 meter distance from our house, so we have been buying drinking water all these years because the water from the well does not seem safe for drinking. We boil our underwear in a pot...”

In their complaints to the Ombudswoman the citizens increasingly often refer to the right to water. At the European and the global levels it has been the subject of a growing number of international documents and awareness-raising activities. However, a universal definition of the right to water has not been adopted as yet nor does it exist as a separate human right. Nonetheless, in its General Comment No. 15 on the right to water the UN’s Committee on Economic, Social and Cultural Rights defines it as a human right entitling everyone, without discrimination, to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use and as a prerequisite for the realization of the right to the attainment of the highest possible level of physical and mental health. This definition, however, does not include the right to an unlimited supply of free water.

In its recommendations under the Universal Periodic Review Mechanism the UN’s Human Rights Council calls for Croatia to continue ensuring the full realization of the right to safe drinking water and sanitation for all.

According to the data provided by Hrvatske vode, the national water company, the public water supply system serves 84% of Croatia’s population and the public sewerage system 50%, with certain regional disparities. Public water services are available to a lesser extent to the inhabitants of smaller towns and villages as well as to those living in the rural areas. Villages with less than 50 inhabitants are not included in the public water investment plans, i.e. the plans for the construction of the water-supply installations, nor is the water their populations consume being subjected to quality monitoring. A little under 4% of the country’s population receive their water supplies from the local water supply systems. The rest depend on the water collected from wells and water springs, which, in most cases, does not meet the required quality standards. However,

The UN’s Committee on Economic, Social and Cultural Rights defines the right to water as a human right entitling everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, without discrimination.



this is becoming less common, since these citizens are gradually being connected to the public water supply network. At the same time, it needs to be mentioned that 20 local self-government units populated by approximately 38.000 inhabitants are completely excluded from the public water supply system. In the villages with small populations a greater degree of effort needs to be invested into providing the citizens with the access to utilities and other public services, especially to acceptable and safe drinking water.

In our work we have come across numerous instances of citizens experiencing problems in access to water either due to their own poverty or the financial restrictions faced by their local self-government units.

Due to its reduced purity the water in one of the Roma villages was subjected to quality monitoring. However, during the monitoring period the competent municipality failed to secure water supply from an alternative source to its residents. Following our recommendation the municipality and the public water distributor discussed the possible solutions to the issues faced by the inhabitants of the settlement in question. In their response to us they asserted that providing access to water for all of the municipality's inhabitants was considered a priority and that the municipality is planning to introduce subsidies to assist the citizens in acquiring connections to the public water supply system. However, it needs to be pointed out that the issues encountered by the settlements' inhabitants cannot be resolved by subsidies alone since their homes also lack the necessary installations.

In another village inhabited mostly by an elderly population due to a water main malfunction water supply was suspended for a period of over six months. The reason was the distributor's refusal to maintain and repair the water mains motivated by the municipality's failure to collect the required documentation and transfer the ownership of the water-supply installations to the distributor. The mains were repaired only after the municipality consented to covering the repair costs. However, the distributor still charged the inhabitants with the monthly costs of maintenance of the water-supply installations for the period in which the service was suspended.

Water is a common good enjoying special protection. Neither the surface bodies of water nor groundwater can be subject to neither ownership nor other property rights.

Another example is that of a municipality experiencing water shortages during the dry summer season when, due to the large numbers of tourists visiting the area, the demand for water rises exponentially. Since there is no systemic solution for this problem in place, the municipality's water supply was suspended in the midst of the 2015 summer holiday season. Since 1986 the municipality has been receiving its water supplies from the nearby water supply system. However, in cases of low water levels in the system's reservoir it is the first one to experience a shortage. In situations like these a water tanker is hired to deliver water to the inhabitants, with a portion of the costs covered by the county. However, the municipality and the distributor, with the assistance from the county, the national water management company, the Ministry of



Agriculture as well as the Ministry of Regional Development and EU Funds, need to devise a systemic solution to this problem and provide the citizens with reliable access to water.

In addition to the difficulties in the access to the public water supply, some of the citizens experience service delivery cut offs for failure to cover their water utility fees. In one of the cases we encountered the delivery was cut off as a combined consequence of the citizens' failure to cover the full amount of the water rate and the unresolved contractual relationship between the supplier and the distributor. The issue had its roots in the private rights and interests over the pumping site – a situation that runs in contradiction with the constitutional and legal provisions stipulating that water is a common good enjoying special protection and that neither the surface bodies of water nor groundwater can be subject to ownership or other property rights.

Water rates are established by the public water distributors in agreement with the local self-government units on the territory of which they provide their services. The only element they are obliged to take into account in the process are the criteria for the calculation of the minimum standard rate, established by the Government. The aforementioned criteria are also the basis for the calculation of the social rates, which the distributors are required to include in their offer, and which cannot exceed 60% of the distributor's standard rate. Water rates in the Republic of Croatia range from HRK 9.23 to HRK 27.79, a fact that points to significant differences in the access to water in different areas of the country as well as to the shortcomings in the existing normative regulation. Furthermore, under the Water Management Act, the distributors are allowed to terminate the service for "justified reasons". The Act does not specify the exact meaning of this term, whereas the distributors use this possibility to terminate the service for failure to pay for the costs of the utility fees, even the outdated ones.

Taking into account the fact that access to water is a necessary precondition for the fulfillment of the fundamental human needs as well as of the right to life and the right to health as enshrined in the Constitution, this natural resource cannot be treated as any other good or service. In the interest of legal certainty and in order to introduce clarity and harmonize the business practices of the water supply providers justified reasons and conditions for the termination of water delivery services need to be clearly stipulated and defined by the law, especially the cases in which the service is being terminated due to unpaid water utility fees. Special attention needs to be given to the protection of the socially vulnerable citizens. They need to be provided with the access to financially accessible water and to the social minimum of water required by a household. In that sense and taking into account the fact that the lack of access to water has more detrimental effects for one's life, health and work than the lack of access to any other form of energy, the criteria for the acquisition of the status of the vulnerable energy consumer need to be expanded to the consumers of water as well.



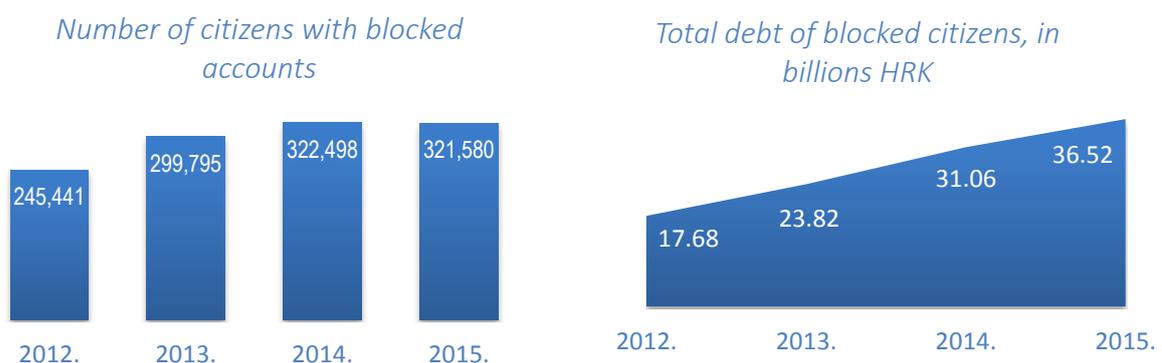
RECOMMENDATIONS:

95. To the Ministry of Environmental and Nature Protection, to adopt the regulation foreseen by Article 29 paragraph 10 of the Sustainable Waste Management Act and establish clear and uniform manner and criteria for the calculation and the collection of the mixed and biodegradable waste collection fees. The said fees ought to be proportionate to the actual quantity of the waste produced by each individual citizen during the billing period;
96. To the Ministry of Agriculture, to draft amendments to the Water Management Act to precisely stipulate the criteria and the justified reasons for the limitation or the termination of the water distribution services;
97. To the Ministry of Public Administration, to take into special account the need to ensure access to reliable public services for all, during the plans for the reform of the public administration system;

3.14. ENFORCEMENTS

Continuing the trend from the previous years, a significant number of citizens' complaints and inquiries we received in 2015 pertained to enforcements, indicating that indebtedness is still one of the main existential issues they are facing. The inability to cover one's liabilities caused by the changes in one's life circumstances and by the unfavorable economic situation in the country produces further negative effects on the citizens' health and family relations and represents an obstacle to living a dignified life and fulfilling one's full potential. All of this has negative consequences for the country and the society as a whole. Even the citizens facing debt enforcements due to their poor financial decisions and irresponsible financial behavior stress the need for systematic and accessible financial education available to all.

In 2015 6.033 new items of the citizens' real property (1.580 houses and 1.103 apartments) and more than 176 items of movable property were entered into the registries of property to be sold in foreclosure auctions. Nevertheless, most of the citizens contacted us with regard to enforcements of their monetary funds. According to the data provided by the state financial agency (FINA), at the end of 2015 the number of the citizens with blocked accounts dropped slightly; however, the total citizen debt has been continually growing since 2012. One of the causes of the latter is the fact that artisans have been closing their shops, after which the state treats the debts incurred through their businesses as their personal debts.



The largest proportion of the total citizen debt still pertains to the debt owed to banks and other financial institutions (62.33%), followed by the debt owed to the central state (9.55%). In 2015 the latter decreased by 6.9% in comparison with the preceding year. Most of the citizens with blocked accounts (80.79%) have been in that situation for over a year and two fifths owe amounts not exceeding HRK 10.000. In other words, indebtedness is affecting most intensely those citizens whose financial situations do not allow them to cover liabilities in the amounts of less than two average Croatian salaries for periods longer than a year. From what has been said so far it is clear that enforcements are not enabling the creditors to collect their claims, while at the same time they aggravate the situation of the debtors and make it more difficult for them to reach the solution to their problems.

With the aforementioned in mind, in 2015 the state undertook a scheme to write off the debts and delay the enforcements for certain groups of citizens on the basis of the Agreement on the Measures to Alleviate the Financial Difficulties of Certain Citizen Categories – a topic we discuss in more detail in the chapter on debt write-offs/debt rescheduling. Furthermore, with the aim of solving the problems of debtors with loans in Swiss Francs, those with a Swiss Franc currency clause as well as those with loans taken out from co-operatives and savings institutions operating in the Republic of Croatia without a permit the Consumer Credit Act and the Act on Credit Institutions were amended and are currently undergoing a constitutional review. Finally, in the past year the Act on Consumers' Bankruptcy was adopted to create the conditions for the insolvent citizens' debts to be reprogramed and for all of the creditors to have their claims settled in an even manner. Since it only came into effect on 1 January 2016 its possible outcomes are still unknown. In its implementation special attention should be given to the safeguarding of the debtors' dignity and the protection of their and their families' basic needs. The same is stressed in the Directive 2014/17/EU of the European Parliament and of the Council on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, which envisages a series of measures related to arrears and the conducting of the enforcement procedures.

Due to the fact that it was not clear which institution was in charge for the issuing of the document proving that a certain income is one's only permanent income, the limitations prescribed by the Enforcement Act pertaining to the enforcement of the debtor's income other than salary, pension or the income from crafts, liberal professions, agriculture, forestry, property and property-related rights, capital or insurance (i.e. income defined as "other" under the special regulations) were not implemented until the middle of 2015, at which point our recommendation to the Ministry of Justice and FINA was implemented and the Tax Administration was tasked with the issuing of the documents in question.

"they transferred my debt to another creditor and gave me a document to that effect. But FINA wasn't notified about that, so according to FINA's records, I still owe the entire amount of the loan to the first creditor. So now I don't know whom to make my payments to."



The Government of the Republic of Croatia failed to support the recommendation we issued to the Ministry of Justice in 2014 suggesting that the Ministry legally establish the obligation of the enforcement creditor to notify FINA and withdraw the writ of enforcement as soon as the debt is settled or assigned to another creditor. Thus, when it comes to enforcements of monetary funds cases of double payments still occur, such as, for example, when the creditor fails to notify FINA that the debtor has settled the debt directly with them and to withdraw the writ of enforcement, so the payment is made to the creditor by the debtor's bank as well. In cases of the assignment of debt to another creditor it is equally important that the previous one informs FINA of the fact. Otherwise the amount owed continues to be transferred to the former creditor's account and the debtor is not certain to which one to make their payments.

Although the Enforcement Act envisages measures such as counter-enforcement and the possibility of instituting a separate action for the compensation of the damages suffered by the debtor, for the reasons of legal certainty and keeping in mind the necessity of reaching a balance between the main purpose of the enforcement procedure (enabling the creditors to collect their claims) and the need to protect the debtor, it is important to prevent the generation of unnecessary procedures and costs as well as the delays in providing compensation to the debtors in cases when it is warranted.

The complaints we received in the course of the previous year indicate that the citizens are still having difficulties understanding the regulations and the legal institutes in the area of enforcements, while at the same they cannot afford any legal assistance. The creditors, on the other hand, are mainly represented by attorneys. They are legally allowed to do so; however, due to this situation the citizens feel hopeless and believe they are being placed in an unequal position. The citizens are especially exasperated in the cases in which public institutions and legal persons vested with public authorities hire attorneys to represent them in enforcement procedures, despite the fact that they are being financed from the state budget and have their own legal departments. Such situations create disproportionate additional costs for the debtors that often exceed the amount of their original debt. In one of the cases we encountered for the enforcement of a debt of HRK 192 additional HRK 312,50 were charged in attorney's fees for the drafting of the motion for enforcement as well as legal costs in the amount of HRK 971,25. When it comes to enforcements of periodical obligations, the debtors are subjected to an even greater amount of procedures and costs, which prevents them from both settling their debts as well as from meeting their current financial obligations.

"Yesterday I received the Novi Zagreb Court's decision based on an indictment filed against me by a law firm. I am being ordered to pay a fine in the amount of HRK 1 350 for failing to buy a train ticket that cost HRK 10.40. How is that o.k.? Croatian Railroads claim that they don't have a legal department? I can reach neither the law firm in question nor the Croatian Railroads nor the court. So I'm asking you: are publicly owned companies in cahoots with attorneys with the aim of robbing the citizens? Some people are earning big money on this."



The original purpose of enforcement – to enable the creditors to collect their claims – needs to be reestablished and in such a way that does not burden the debtors with high extra costs. This legal institute should not serve as a source of additional income for some of the subjects taking part in it. Thus, in cases when the amount of the debt does not exceed a certain limit and is lower than the creditor's legal costs the debtor should be legally exempt from the obligation to cover those costs.

In certain cases the citizens are unaware of the fact that an enforcement procedure was instituted against them and sometimes of the existence of the debt itself until the moment their account is blocked. Consequently, they lose the opportunity to settle their debt without incurring high extra costs, to use a legal remedy or to open a special account in order to protect their income. Commenting on the Ombudswoman's 2014 annual report, the Government asserted that service by court is regulated in an optimal manner and that it is impossible for the debtor to be unaware of the fact that an enforcement procedure was instituted against them, except in the cases in which they refuse to be served or do not reside at the address they reported as their permanent residence. However, it is clear from the cases we encounter that the citizens are experiencing problems in this area but also that it is necessary to raise their awareness of the possible harmful consequences of the failure to register their temporary or permanent residence. Furthermore, it is important that the citizens be served with a reminder to pay prior to the instituting of an enforcement procedure against them, an option not provided for in the current legislation. Such a solution would allow for the settling of debts without conducting expensive enforcement procedures, which would benefit both sides. At the same time, the delivery of the reminders should not generate any additional costs for the debtors.

In the past year we received complaints by citizens asserting that their accounts had been blocked and they had been subjected to enforcement procedures due to being incorrectly indicated as debtors in the motions for enforcement. Some contacted us complaining that they were not aware of the obligation to open a separate account in order to protect a portion of their income from enforcement. Others were not informed about the fact that one is required to separately notify FINA of each of one's protected sources of income. Since most of these cases were outside of our competence we provided the complainants with general legal information and the information on the available legal remedies, advised them to use (free) legal assistance and warned them about their duty to inform FINA about their protected sources of income. A number of citizens contacted us asking for help and citing their difficult existential situation which prevented them from settling their debts. We provided them with the information on debt write-offs, on how to obtain the stay of enforcement, on the possibility of applying for a write-off of the taxes owed, the possibility of concluding an administrative contract with the Tax Administration as well as on other options available to them under special regulations.



In addition to the issues discussed above, in 2015 we received a number of complaints pertaining to the behavior of the banks and FINA. The citizens most commonly complained about the charging of additional fees in the procedures for the enforcement of the debtor's monetary funds as well as about the unlawful practice of the banks of transferring funds to the enforcement creditor's account causing the debtor's account to go into overdraft. When it comes to the complaints submitted to the Croatian National Bank (hereinafter: CNB), those pertaining to the behavior of the banks in the procedures for the enforcement of the debtor's monetary funds and those related to the assignment of claims were some of the most common ones and are only outnumbered by complaints related to loan conversions. We discussed the problems related to claim assignments in our 2014 annual report and have continued to receive complaints pertaining to this issue in the course of 2015. Many citizens complained about the behavior of the debt collection agencies, asserting that the repeated phone calls and threats they were receiving interfered with their privacy and even had a negative impact on their health.

"... my main problem began when the banks transferred my debts to the debt collection agencies... I tried to explain to the people from the agencies that I'm not indebted because I want to be but because my financial situation prevents me from settling my debts. However, they keep harassing me over the phone, threaten they will come to my home... they even contacted my neighbor and now he's judging me as well... they're driving me crazy."

Unlike the work of the factoring companies and the credit institutions the work of the debt collection agencies is monitored neither by the Croatian Financial Services Supervisory Agency (HANFA) nor by the CNB. Thus, the citizens feel unprotected, especially taking into account the fact that they are forced into legal relations with those subjects without having a say in the matter.

Due to the slow pace of the communication between FINA, the banks and the subjects making income payments to the debtors, in certain cases reported to us the debtors' protected incomes were enforced either partially or in their entirety despite the fact that they had opened protected accounts and had notified FINA of the expected payments of protected income. In all of these cases the creditors refused to return the funds in question and the debtors were left with no means to support themselves. FINA is required to notify the payer of the protected income, without delay and using all appropriate means, including electronic mail, of the fact that an enforcement procedure has been instituted against the payee and to warn the payer to make the payment to the payee's protected account. FINA, however, uses registered mail for delivering such notices, which can take up to 10 days and results in the payments of the protected income to be made to the payee's regular account. In order to prevent the subsequent enforcement of these funds,

Enforcement debtor is not in an equal position and an appropriate level of attention should be given to the protection of their rights and to their effective implementation in practice.



the banks are required to inform FINA of such payments via electronic mail. In the event they fail to do so, it is up to the debtor to demand that their enforcement creditor return the wrongfully enforced funds but the creditor is not legally obliged to comply with such a request. The Act on the Enforcement of Monetary Funds prescribes fines in cases of errors committed by the banks or by FINA but only for those causing damage to the creditor. It does not envisage any sanctions for errors resulting in the enforcement of the debtors' protected income. From what has been said so far, it is clear that the debtors and the creditors do not enjoy an equal degree of protection. Thus, an appropriate level of attention should be given to the protection of the debtors' legal rights and to their effective implementation in practice.

A specific manner of payment should be legally prescribed for the income exempt from enforcement under Article 172 of the Enforcement Act and under special regulations. Regardless of the fact whether the payee is facing an enforcement of their funds at the moment of the payment, these payments should be made to separate accounts and be protected from enforcement.

Discrimination in the Access to Banking Services

Enforcements of monetary funds can also be discussed in the context of discrimination on the grounds of economic status in the area of access to goods and services. More specifically, banks are not required to issue bank cards to be used with protected accounts. Consequently, the holders of such accounts cannot withdraw their money using ATM machines but are instead forced to visit a bank. Taking into account the fact that banks are commercial institutions and that at the same time they are not allowed to charge fees for the opening, managing and closing of protected accounts it can hardly be expected that they would be willing to issue bank cards accompanying those accounts at their own expense, unless required to do so by the law. In spite of that, banks should be aware of the fact that their business policies and practices are not exempt from the prohibition of discrimination under the ADA.

According to the CNB's data, by the end of 2015 only one bank started issuing bank cards to be used with protected accounts. At the same time, what needs to be taken into account is the fact that it can be difficult for some of the owners of these accounts, such as for example the elderly, persons with disabilities or those of ill health, to visit a bank and wait in lines in order to access their funds. Thus, not providing them with an option of using an ATM might amount to discrimination. The problem is especially pronounced when it comes to persons living in small towns and villages without a bank or with a bank that closes in the afternoon and on the weekends. These individuals are then forced to travel to other towns in order to use banking services, which additionally exhausts their already meager household budgets.

Addressing the situation described above, we recommended that the banks start issuing bank cards for the protected accounts as soon as possible so that their owners could access their funds via ATMs. The responses were mixed: some of the banks failed to respond at all, some



rejected our recommendation, others took it into consideration, whereas some accepted it and took the measures necessary for its implementation.

RECOMMENDATIONS:

98. To the Ministry of Justice, to amend the Enforcement Act and prescribe:

- that the enforcement creditor is obliged to withdraw the writ of enforcement from the FINA register immediately after the settlement or the assignment of the debt;
- sanctions in the cases of the violations of the obligation stated above;
- the exemption from the obligation of the debtor to cover the creditor's costs of legal representation in cases when they exceed the amount of the debt itself;
- the threshold amount of debt starting from which the above stated exemption is to be applied;
- the obligation of the creditor to serve the debtor with a reminder to pay and allow for a sufficient time-period for the settlement of the debt prior to instituting an enforcement procedure against them;

99. To the Ministry of Justice and the Ministry of Finance, to amend the Act on the Enforcement of Monetary Funds and the Ordinance on the Manner and the Procedure of the Enforcement of Monetary Funds and prescribe the obligation of FINA to notify, via electronic mail, the payer of a protected income of the fact that the payee has opened a protected account and to do so on the same day on which the protected account was opened;

3.15. CROATIAN HOMELAND WAR VETERANS

„...On the basis of a decision issued in 2004 by the Ministry of Family, War Veterans and Intergenerational Solidarity I was granted a housing loan for the construction of a family home... Under the law, in cases when a disabled Croatian war veteran uses a housing loan to build a house in his/her place of permanent residence the local self-government unit is obliged to provide him/her with the building land. I have submitted a request for the land several times to my municipality and have requested assistance from other government institutions. However, to this day, 11 years since I took out the loan, the municipality has been refusing to give me the land. Despite that fact, since 2004 I have been covering the loan's monthly instalments.”

In their complaints to the Ombudswoman Croatian Homeland War veterans often express their frustration, disappointment and anger over the way the society at large is treating them and over the fact that often they are considered to be nothing more than a burden. Instead of being based on a comprehensive rehabilitation system, the existing mechanisms of care provision for



the veterans mostly focus on pension and social programs. Thus, it is important to establish a care system grounded in the recognition of the veterans' contribution to the society, social solidarity and the veterans' actual needs, which would enable them to exercise their rights while at the same time providing psychosocial support for their inclusion in the community.

The veterans' complaints submitted to us indicate that in the 20-year period since the war's end a number of them have not been able to regulate their status or exercise their rights or were not able to do so at a satisfactory level. That information is not surprising taking into account the fact that the rights of the veterans and their families are currently regulated by a dozen laws and subordinate regulations. Such a situation confuses the (potential) beneficiaries and slows down the work of the competent bodies. Additionally, some of the regulations were adopted using a fast-track procedure, without well-conducted public consultations and without involving the veterans to a satisfactory degree, which lead the veteran population to suspect that the legislative changes in question were aimed at cancelling their rights instead of improving them.

In the course of the previous year the Ministry of the Veterans' Affairs (hereinafter: MVA) approved 169 requests for housing loans as well as 75 grants for the purchase or the construction of a first home and awarded 172 apartments to veterans. However, taking into account the fact that in 2015 the Ministry received more than 12.000 veterans' requests for the provision of housing, it is clear that the demand surpasses the currently available resources. These data also lead to a conclusion that new legislation ought to be adopted to regulate the provision of housing to the veterans in a comprehensive manner— a topic we discuss in more detail in the chapter on social housing.

In 2015 the MVA paid out 4.125 one-off benefits in addition to 108 emergency one-off benefits. These figures indicate that a certain number of veterans and their families are facing serious financial difficulties and are unable to fulfil their basic needs.

Unemployed veterans and the children of the killed, captured or missing Croatian army members are dissatisfied with the manner in which their right to advantage in employment is implemented in practice. Their dissatisfaction stems from the fact that they often believe themselves to have automatic advantage over all other candidates applying for the same position. In reality, however, they only have it under equal conditions, i.e. in situations in which they share the position of the most successful candidate with another individual.

In the course of 2015 veteran hospitals were established in the cities of Zabok, Vukovar, Knin and Ogulin, enhancing the quality of the health care provided to the veterans. At the same time, through the activities under the National Program for the Provision of Psychosocial and Other Forms of Health Assistance to the Veterans and the Victims of the Homeland War and World

The existing mechanisms of care provision mostly focus on pension and social programs, instead of a comprehensive rehabilitation system. It is important to establish a care system grounded in the recognition of the veterans' contribution to the society, social solidarity and the veterans' actual needs.



War II and to the Persons Returning from Peacekeeping Missions, centers for psychosocial assistance provided help for 32.140 individuals in more than 40.000 interventions. The 21 county centers have only 16 regular employees and 82 outside collaborators. These figures indicate that the veterans' psychosocial needs are significant and the existing capacities insufficient to meet them.

A certain number of the complaints received by the Ombudswoman in the course of the previous year pertained to the assignment of state-owned stocks to the Homeland War veterans, i.e. to the fact that stock are assigned to them based on their nominal and not on their commercial (and often significantly higher) value.

Apart from the issues discussed above, in their communication with the Ombudswoman the veterans pointed to the need for the promotion of the values of the Homeland War, the protection of the dignity of the war veterans and victims and the education of the wider community about significant Homeland War events and locales and advocated for more projects aimed at enhancing their living quality, increasing their educational attainment and improving their position on the labor market with a view of reaching sustainable and long-term solutions for the problems they are facing.

The existing regulations pertaining to the rights of the veterans are likely to undergo changes in the foreseeable future. It is important for these changes to introduce comprehensive and sustainable solutions rooted in the principles of peace, justice, inclusion, cooperation and mutual consensus.

RECOMMENDATIONS:

100. To the Ministry of Veterans' Affairs, taking into account staff shortages experienced by the centers for psychosocial assistance and with the aim of ensuring a greater level of accessibility of this type of assistance to the veterans, to engage in cooperation with civil society organizations providing such services;
101. To the Ministry of Veterans' Affairs, to provide continuing education for the employees of the centers for psychosocial assistance on the veterans' rights and needs and the manners and forms of assistance provision, with an emphasis on the provision of psychological and emotional support;
102. To the Ministry of Veterans' Affairs, to ensure a higher degree of inclusion of the veterans' associations in the legislative procedures;



3.16. CIVIL VICTIMS OF WAR

“In 1992, after my military service in the Yugoslav National Army had ended, I was imprisoned and held captive in Serbia and then in the occupied territory of Croatia until the middle of 1993. The place where I was kept was located only a few kilometers from my home. Red Cross searched for me and I was exchanged at the Croatian police check-point in Nemetin. However, the state refuses to recognize the fact that I was a prisoner of war and to give me the status of a civil victim of war since my name is not in the Ministry of Defense’s official records, although I have news clippings and a report issued by the Red Cross to back up my claims.”

Civil victims of war still do not receive the level of recognition they deserve and the currently existing compensation and support mechanisms are not available to all victim categories. Victims of violence have the right to justice, social support and respect, fair and adequate compensation for the atrocities they were subjected to as well as to psychological, medical and legal aid. Most of all, they have the right to the social recognition of their suffering, especially having in mind the fact that most of the perpetrators of the crimes against them were never brought to justice.

A comprehensive system aimed at the protection of the rights of civil victims of war ought to be established and harmonized with the provisions of the UN’s Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

The civil victims’ complaints submitted to the Ombudswoman indicate that the existing rehabilitation and reparation mechanisms are insufficient and lead to their further victimization and traumatization. Recommendations issued to Croatia under the ICCPR and UPR reporting mechanisms point to the same problem.

The rare individuals attempting to seek redress within the current normative framework are usually faced with a great amount of difficulty and significant costs.

In 2015 the Act on the Rights of the Victims of Sexual Violence Committed During the Armed Aggression in the Homeland War was adopted. This event was a step forward in the protection of the rights of this category of victims. However, at the same time, the MVA failed to implement the Ombudswoman’s recommendation issued a year before suggesting that the Ministry draft the proposal of the Act on the Protection of the Disabled Veterans and of the Civilian Victims of War and subject it to public consultations. The act heretofore regulating these matters (the Act on the Protection of the Disabled Veterans and of the Civilians Disabled in the War; hereinafter: APDVCDW) has already been amended 14 times but its provisions still



do not encompass all victim categories and do not fulfill their needs and expectations. It regulates the protection of disabled veterans, army members disabled in the peacetime period, civilians disabled in the war as well as persons participating in the war and their family members but not of the civil victims of war. Taking this fact into account, a separate law should be adopted to regulate the rights of this group of war victims. It ought to include various victim groups and manners of death/injury: victims of killings, injury, terrorist acts or acts of sabotage, persons injured by landmines, war prisoners and all other victims irrespective of their nationality, ethnic origin, political beliefs or any other differential criteria. A clear definition of a civil victim of war needs to be adopted irrespective of whether or not that status will result in any material or other rights.

In the process of devising the best model to provide compensation for the victims the legislator should be guided by the principles of social solidarity and justice as well as by the standards established in the Act on the Rights of Victims of Sexual Violence Committed During the Armed Aggression in the Homeland War and the Act on the Compensations Granted to the Victims of Crime.

To acquire the status of a civilian disabled in the war the applicant needs to prove that they sustained physical impairment of at least 20% or higher. However, the evidential procedure itself is complicated, inflexible, and unsuitable for the achievement of the purposes of the APDVCDW and contrary to the principles of ascertaining substantive truth. Under the legal provisions currently in place, very specific types of written evidence are required to prove certain facts. Additionally, some of those provisions lead to inconsistencies in practice. To list one example, under the provisions of the APDVCDW, as a matter of exception and in addition to the regular means of evidence, the fact that a wound or an injury was sustained under certain circumstances can also be proven by a certificate issued by one of the Homeland War veterans' associations. However, certificates issued by other similar associations are not accepted for the purpose, which puts certain categories of victims into an unequal position.

The complaints indicate that the existing rehabilitation and reparation mechanisms are insufficient and lead to further victimization and traumatization.

Another example of the faulty normative framework is that of a 91-year-old man, imprisoned during WWII and kept in the Na kanalu, Stara Gradiška and Jasenovac war camps. After the adoption of the new Social Welfare Act and of the amendments to the APDVCDW in 2014 he was not eligible to receive the maintenance benefit anymore. At the same time, he was neither able to acquire the status of a disabled veteran nor that of a civilian disabled in the war. The situation landed him into a position of utmost financial uncertainty. In spite of submitting three witness statements, the Association of Veterans of the National Liberation War in Yugoslavia's membership card stating that he was a disabled veteran, a copy of the Stara Gradiška camp's inventory book as well as a document proving he had received compensation for being subjected to slave work in the Jasenovac camp, he could not acquire either of the statuses due



to the fact that he was not able to submit his medical documentation for the years 1945 and 1946, which the current legislation required him to do. To avoid situations like the one just described and to ensure equality before the law for all its citizens it is important that the state promptly establish appropriate normative regulation of the status and the rights of all civil victims of war.

In administrative proceedings all appropriate means of evidence (e.g. documents, witness statements, findings and opinions of expert witnesses, etc.) may be used to establish facts. With that in mind and taking into account the lapse of time as well the fact that the subjective and objective circumstances of each individual case differ, the same should be allowed in the procedures to determine the war victim status.

The citizens are still encountering issues related to the civil proceedings instituted for the compensation of non-pecuniary damage for the death of a close family member in the Homeland War and the proceedings for the compensation for the damage caused by Croatian army and police force members during the Homeland War. In a significant number of cases the plaintiffs institute such proceedings without having previously brought criminal charges against the perpetrators and without the perpetrators having been convicted of a war crime or another criminal act. Consequently, many of those claims are rejected by the courts, predominantly for procedural reasons, whereas the plaintiffs are being charged with the legal costs in amounts that in certain cases exceeded HRK 100.000 and are facing enforcements in cases of non-payment. In its response to the Ombudswoman's 2014 Annual Report the Government asserted that the proposed write-offs of the legal costs in these types of situations would place this particular group of citizens in a more favorable position in relation to others who had lost in a case against the Republic of Croatia and have been ordered to pay for the costs. The Government, however, failed to propose an alternative solution to the problem at hand.

Until a fair and sustainable solution is provided cases such as *Jelić vs. Croatia* (2014) and *B. vs. Croatia* (2015) will continue to appear before the European Court of Human Rights.

RECOMMENDATION:

100. To the Ministry of the Veterans' Affairs, to draft the Act on the Rights of Civil Victims of War;



3.17. HEALTH

„In order to book an appointment with my doctor for the following month the patients are required to visit or call his office. However, this is possible to do only once a month, and only in the period between 7 and 9 a.m. Appointments cannot be booked at any other time. Since his telephone line is always busy and I cannot miss work in order to personally book an appointment at his office I am having difficulties exercising my right to health. And to make the matters worse, using the argument that all of his appointments in the public clinic are booked, my doctor's nurse advises the patients to see him in his private practice.”

When it comes to health care, 2015 was marked by reform announcements and attempts at adopting amendments to the Health Care Act (hereinafter: HCA) and to the Compulsory Health Insurance Act (hereinafter: CHIA). The process of public consultations for the amendments in question was conducted for a period of time albeit not in line with the provisions of the Regulatory Impact Assessment Act and the Act on the Right to Access to Information, and was subsequently halted. The scope and accessibility of health care are some of the key social issues, marked by a widening income gap between the different strata of the society. Due to the latter every reform of the health care system arouses a great deal of interest among the general public, the experts in the field, CSOs working in the field of health or patients' rights protection, the unions and, especially, the most impoverished of the citizens. If realized, the announced government plans to rationalize the functioning of the health care system primarily through cost-reduction might lead to a reduction in the quality of health care provided to the citizens. Since cost cuts are currently being achieved, among other measures, via reductions in new employment and reductions in the purchase of the new medical equipment, members of the public are concerned that the announced reform measures might lead to limitations to or denial of their rights stemming from the compulsory health insurance system. The patients' associations are warning that the potential reductions in patients' rights might place the vulnerable populations, especially persons suffering from terminal or incurable illnesses and the elderly, in an even more insecure position. The division of the health care services into two categories – the standard vs. the additional ones – as well as the possibility given to doctors of medicine and of dental medicine to simultaneously work both in the public and in the private sectors lead to the growing disparities in the accessibility and the quality of those services, since the patients who can afford to do so use the services of the private practitioners whereas those who are less well-off are often left without the adequate level of service.

The rationalization of the costs of health care is a step that needs to be made. However, some of the population's health related needs should be provided for in the state budget. For instance, the patients confined or placed into psychiatric institutions on an involuntary basis should in no way be forced to participate in the incurred costs – a problem we examine in more detail in the chapter on the state of the rights of persons deprived of their liberty. In the same



chapter we discuss the importance of the reform of the provision of health care within the prison system.

Equal access to health care for all is a principle commonly evoked in public discourse. However, issues such as long waiting lists for medical procedures and limited access to good quality medical treatments indicate that its practical implementation is lacking, which is a topic we discuss in more detail in the chapter on discrimination in the area of health. Timely access to medical services is listed as one of the general aims in the Ministry of Health's Strategic Plan for the period 2014-2016. At the same time, the Ministry failed to implement our last year's recommendation and adopt the Regulation on the Medically Acceptable Time Period for Receiving Medical Services, making it difficult for the patients to exercise, in a transparent manner, their right to timely access to medical services in accordance with their diagnoses.

With the aim of reducing the waiting periods for various medical procedures in 2015 measures such as the discontinuation of financing of the Croatian Health Insurance Fund from the state treasury and a new contracting model for the hospital and specialist services were undertaken and numerous activities, such as Program Plus, 72 Hours and Open Door Days, were organized by the Ministry of Health and the Croatian Health Insurance Fund. According to the CHIF's data, still incomplete at the moment of the writing of this report, that goal was achieved for certain diagnostic and therapeutic procedures. However, a comprehensive analysis of the effects of the aforementioned measures needs to be undertaken as a necessary precondition for any systemic solutions to the problem at hand. Any of the proposed solutions should focus on the provision of good quality medical services to all patients as their most important criterion.

The recommendations issued to Croatia under the UPR procedure refer to the access to health care as well. Croatia is urged to provide the persons living in the rural areas with the access to health care facilities, taking into account various elements influencing the health care system's sustainability in a particular region, such as the structure of the population, their living standard as well as the employment rate and the degree of the region's economic development.

With the aim of improving the quality of life of the terminally ill patients and their families, the Strategic Plan for the Development of Palliative Care for the period 2014-2016 envisages, among other measures, the upgrading of the palliative care system through the introduction of new organizational forms and content, an increase in the medical facilities' accommodation capacities for the palliative care patients, the provision of training sessions for the medical staff, a rise in the number of palliative care hospital teams as well as the establishment of palliative care coordination centers in the counties. The amendments to the Public Health Service Network introduced the position of palliative care coordinators to be employed by the primary level medical facilities as well as palliative care mobile teams. Nonetheless, comprehensive data on the implementation of the Strategic Plan and the Network are not available as yet.



In its 2008 decision no. U-I-4892/2004 the Constitutional Court of the Republic of Croatia repealed Article 35 of the Act on the Protection of the Patients' Rights. The Court took the position that a complaint did not constitute an effective legal remedy for the protection of the patients' constitutional right to health protection. The court's reasoning was grounded in the fact that in handling the patients' complaints medical facilities were not obliged to respond by issuing individual legal acts the legality of which could subsequently be subjected to judicial review. However, the legislator has still to provide an efficient legal remedy for the protection of the patients' rights.

The legislator has still to provide an efficient legal remedy for the protection of the patients' rights.

In 2015 the Ombudswoman received 178 citizens' complaints related to the area of health. These pertained to the work of the professional chambers, the work of physicians and nurses, the inability to access certain medical services, problems encountered when attempting to make an appointment to see a physician or for a medical procedure, issues with long waiting lists, and the quality of the provided treatment and to the poor working conditions in the medical facilities. In most cases the citizens did not know to whom to address their complaints. Thus, the competent bodies need to invest more efforts into providing them with the relevant information on a continuous basis.

The certificates issued by the Croatian Nursing Council (hereinafter: CNC) required for the recognition of Croatian nurses'/technicians' professional qualifications abroad do not contain all of the necessary data and do not comply with Article 23 of the Directive 2005/36/EC, which hinders their chances of employment in other EU member states. One of the Council's functions is to protect the interests of the nurses/technicians. Therefore, practices such as these call into question the legality of its work.

In the course of the last year we received complaints related to the work of the Croatian Dental Chamber, or more specifically, to the procedures related to the issuing of licenses to the doctors of dental medicine who undertook their university education outside of the European Economic Area and would like to practice in the Republic of Croatia. Their degrees had already been recognized by the Agency for Science and Higher Education and they were able to undertake their residencies. In spite of that, after Croatia's accession to the EU the Ministry of Health refused to let them take their licensing exams and demanded that they have their degrees recognized again, this time with the Croatian Dental Chamber. However, taking into account the fact that their degrees had already been recognized once, in a procedure prescribed by the law and by a body competent at the time, the Ministry's actions in these cases constitute retroactive implementation of the law. Additionally, the MH's decisions in these matters were not uniform. Some of the candidates were allowed to take their licensing exams, while others were not, which constitutes unequal treatment. Finally, the fees for the recognition of foreign degrees vary significantly depending on the branch of the medical profession and the body competent for the procedure. Thus, The Croatian Medical Chamber



charges HRK 1.000 for this service, whereas the Dental Chamber's fee stands at the high HRK 11.050.

Conscientious objection was another topic that attracted public attention in the course of the previous year. The Ombudswoman was contacted both by the citizens whose access to health

The Ombudswoman was contacted both by the citizens whose access to health care was limited or obstructed due to physicians invoking their right to conscientious objection as well as by physicians claiming that some of their colleagues were abusing this right only to avoid performing certain medical procedures.

care was limited or obstructed due to physicians invoking their right to conscientious objection as well as by physicians claiming that some of their colleagues were abusing this right only to avoid performing certain medical procedures. The right to conscientious objection was established by the Council of Europe's Resolution 1763. In Croatia it has been implemented into almost all of the laws regulating the medical profession, with the exception of the Midwifery Act, allowing a medical practitioner to refuse, on the basis of her/his ethical, religious or moral beliefs or convictions and under the conditions prescribed by the law, to perform a medical procedure on a patient. However, the complaints we received indicate that occasionally medical practitioners invoke this legal institute

in order to avoid the performance of certain medical procedures. In the chapter on discrimination on the grounds of religion we discuss such a case involving the treatment of an orthopedic patient. A further problem is the fact that the law regulates neither the manner of informing the patient and the employer of one's decision to invoke conscientious objection nor the manner of and the deadlines for the referral of the patient to another specialist, which can thwart the patients' timely access to medical services.

In order to avoid possible abuse of this institute, the Ministry of Health and the medical facilities should keep registries of the medical practitioners who have chosen to invoke it. In cases when the medical staff expresses conscientious objection their adherence to the law needs to be systematically monitored and the right of the patient to be provided with the appropriate medical service and to receive it in a timely manner should be treated as a priority. MH should harmonize the conduct of all medical facilities by issuing an instruction regulating the manner in which the patients' right to a medical service is to be ensured in these cases, either within the same medical facility or by referring the patient to a different one. The Ministry should also conduct continuous monitoring of the instruction's implementation.

The county committees competent for the protection of patients' rights took note of the issues deriving from the inappropriate conduct of the medical staff, inadequate provision of medical services, dissatisfaction with the prescribed therapy, the fact that medical facilities are not equipped well enough to cater to the needs of patients with mobility issues, physicians not starting their working hours in time or not answering their telephones etc.



“The doctor has been prescribing antibiotics for years without even seeing the patient. The patient is bedridden and immobile. We have been asking the doctor for months to come and see him, since his condition has been deteriorating. But the doctor keeps refusing and just goes on prescribing medications. When the patient’s condition deteriorates completely, there will be nothing left to be done.”

In 2015 the citizens contacted the Ombudswoman citing various problems in the area of health insurance. Some of them were unable to exercise their right to supplemental health insurance. Others were not acquainted with the terms and conditions of their supplemental insurance policy to a sufficient degree. Some of the complainants claimed that the competent body committed an error in determining the cause of their temporary inability to work or that they were wrongfully declared able to work again.

The citizens also pointed to a protracted duration of the appeals proceedings against CHII’s first-instance decisions, the amounts of the salary compensations they were awarded on the basis of the temporary inability to work, the provision of dental services not covered by insurance without the patient’s prior consent and without issuing a receipt as well as to the frequent and ungrounded inspections of the approved sick leaves. Other issues the complainants were facing include the long duration of the proceedings before the competent bodies, the inability to reach the CHII’s toll-free telephone lines as well as the failure of the CHII’s employees to provide them with the necessary information. When it comes to the last point, the CHII should provide a sufficient number of employees to deal with the citizens’ inquiries, especially those submitted via the telephone or e-mail.

RECOMMENDATIONS:

104. To the Ministry of Health, when adopting new legislation, to comply with the provisions of the Act on Regulatory Impact Assessment, the Regulation on the Implementation of Regulatory Impact Assessment and of the Code on Consultations with the Public Concerned in the Process of Adopting Laws, Other Regulations and Acts;
105. To the Ministry of Health, to adopt the Regulation on the Medically Acceptable Time Period for Receiving Medical Services;
106. To the Ministry of Health, to legally prescribe an effective legal remedy for the protection of the patients’ rights, in line with the corresponding Constitutional Court decision;
107. To the Croatian Nursing Council, to comply with the corresponding EU Directive and the Ministry of Health’s instruction in the procedures for the recognition of the nurses’/technicians’ qualifications;
108. To the Ministry of Health, regarding the doctors of medicine and the doctors of dental medicine whose degrees have already been recognized by the competent bodies, to the



Ministry of Health should harmonize its decisions pertaining to the licensing exams and should instruct the competent professional chambers to harmonize the fees they are charging for the recognition of the foreign degrees;

109. To the Ministry of Health, to should issue an instruction to regulate the procedure in cases of medical staff's conscientious objection and should continuously monitor its implementation;
110. To the Croatian Health Insurance Fund, to should provide a sufficient number of employees to handle the communication with the citizens, especially with the elderly and the persons in an unfavorable financial situation;

3.18. DISCRIMINATION IN THE AREA OF HEALTH

Over the past year, the trend has continued of a relatively small number of complaints indicating discrimination in the area of health, which covers health care and health insurance, and discrimination on the grounds of one's health. The delicacy of the doctor- patient relationship, with fear of the consequences that may result from complaining, certainly affects this number. On the other hand, the vagueness of regulations and doubt about the competence of some bodies affect the time taken to resolve the issue, so in 2015 work continued on complaints from the previous year.

In view of the fact that poverty, inadequate nutrition, inappropriate working conditions and an unhealthy way of life directly contribute to the development of illness, the connection is increasingly obvious between living standards and the health of individuals, which places the more wealthy classes of society in a privileged position. According to the conclusions of the Commission on Social Determinants of Health of the World Health Organization, unemployment, work in jobs with a significant harmful effect and the inaccessibility of health care greatly contribute to inequality in the health care of the population, which indicates possible discrimination in the field of health care on various grounds, and not only on the grounds of economic status.

Defining the RC as a social state, the Constitution also guarantees the right to health care pursuant to the law. Alongside the obligation to respect the constitutional principal of equality before the law and the prohibition of discrimination, the Health Care Act proclaims comprehensiveness, continuity and accessibility as some of its fundamental principles.

At the same time, public health is increasingly exposed to market principles, which opens the door to many undesirable consequences, which especially hit the most vulnerable social groups - the elderly, the poor or seriously ill, bringing them into an unfavourable position in situations where they are most in need of the support of society.



In order to avoid this, and for the state to demonstrate responsibility for protecting and preserving the highest possible level of health of the population, in the promised reform of the health system it is necessary to strengthen the position of public health, taking into account that health must not become the privilege of the social elite. Simply leaving it to the will of the legislator to determine the guaranteed level of health care in this context seems inadequate, meaning that it is necessary to consider the introduction of a stronger, constitutional guarantee of the highest possible level of health, which is defined in international documents as the right to health.

Unemployment, work in jobs with a significant harmful effect and the inaccessibility of health care greatly contribute to inequality in the health care of the population.

Although for some procedures or treatments the waiting lists have been shortened, for some they are still several years long, but the Croatian Health Insurance Fund does not have official figures on waiting lists. However, the seriousness of the problem is shown by the case of a patient covered by the media who should go for medical rehabilitation every year following surgery for a brain tumour. Although he last went in 2011, and the waiting list is drawn up three years in advance, he has not been given approval for another course of therapy until 2020. Despite his appeal, only after the case was presented in the media, alongside indications of insufficient capacities, was his appointment moved to the middle of 2017. Although the CHIF does not have competence to prescribe medical treatment, it states that shorter waiting lists would be achieved by reducing the number of people who are referred for medical rehabilitation. In order to avoid the negative effects of such decisions, when they are rendered it is extremely important to take account of the criteria which must be founded primarily on optimal health.

Quotas, which are still prescribed for some health procedures, do not follow real needs so they undermine the principle of access to health care. Those suffering from rare diseases, of which there are about 400 in the RC, are an especially vulnerable group, which, despite their small number, often come up against problems in organizing treatment and in access to therapy. Apart from waiting too long for therapy, they are often left without the necessary medication because the hospitals, due to the expense, cannot finance them from their own resources. Medication for rare illnesses, so-called "orphan drugs", are expensive due to the small number of patients, and the companies who produce them, due to the small market, are often not interested in selling them in Croatia.

Newer and more effective generations of drugs are inaccessible to patients in a large number of cases. The manner and standard of treatment of malignant diseases depends on the financial capacities of the hospitals, which, apart from threatening the fundamental principles of health care, directly leads to above average mortality from malignant diseases. According to figures from the Skin Disorder Clinic of the Sisters of Mercy Clinical Hospital Centre, the number of diagnosed cases of melanoma in the RC is at the level of the European average, but the



mortality rate is 50% higher. A contributing factor to this is the protocol according to which new, modern and more effective therapy is only prescribed when a positive reaction is lacking to the standard, also less effective, therapy. In this situation, the state of the disease usually deteriorates, so the chances of a cure are reduced, and the negative effect of the ineffective therapy and the deterioration of health ultimately increase the overall costs of treatment for each patient.

It is still not clear why the costs of treatment of rheumatoid arthritis using so-called expensive, biological drugs in the first year is charged from the hospital's funds, and it is obliged to procure them, whilst for treating some other illnesses, expensive drugs are provided from the very beginning from the CHIF budget. The lack of a legitimate aim to justify the disputed differentiation represents discrimination on the grounds of health. In order to avoid this, patients whose illness is treated using so-called expensive drugs must have access to therapy, in good time, and under equal terms.

The comprehensive right, guaranteed by law, of patients to be informed, has been reduced to a mere formality in our health care system. In practice, the form giving informed consent is signed in the waiting room before the patient's first meeting with the doctor and before being given information on the recommended procedures, their effects and available alternatives. Since the system of privatization of health care provides the possibility of dialogue and the necessary detailed information for those who can pay for that kind of health care, this procedure may lead to discrimination, because less educated or impoverished patients are left without clear information about their health, the course and possible procedures of treatment.

The system which allows doctors to conduct business in health care for their own account at the same time as in the public health care service, opens up the question of a conflict of interest, and the accessibility and quality of the service that the doctor provides within public health care. The involvement of the same person in both systems raises the question of the influence of private/financial interests on making decisions on the course of treatment, objectivity, impartiality, and transparency, both in terms of diagnostics and in the form of treatment. This mingling of public and private health care through the person of the doctor, again, especially seriously affects people with lower financial capacity.

Public health is increasingly exposed to market principles, which opens the door to many undesirable consequences, which especially hit the most vulnerable social groups - the elderly, the poor or seriously ill, bringing them into an unfavourable position in situations where they are most in need of the support of society.

The shortage of doctors, which is increasingly discussed, also affects the quality and accessibility of health care. According to unofficial figures, in Croatia there is a shortage of as many as 250 teams in health care, of which 124 teams in primary health care, which additionally raises the question of accessibility and quality, but also possible discrimination in the field of health care. Here, the network is not complete in paediatrics, gynaecology, dentistry, care in



the home, school medicine and community nursing. This situation particularly affects the population in rural areas, smaller towns and on the islands. NGOs dealing with patients' rights especially emphasize that the populations of these areas do not even have information available, making their access to health care even more difficult. Transport connections, and the abolition of regular bus and train routes have aggravated the problem, especially in relation to those groups which, due to their age, health or material status, are not able to gain access to health care using their own resources.

The out-of-date Ordinance on jobs with special working conditions from 1984 and the insufficiently developed system of establishing the previous health capacity of workers may also lead to discrimination. For example, an HIV positive complainant was sent for the prior establishment of working capacity for a job for which HIV positive status is not an obstacle. The Ordinance on work which a worker may do only after his/her capacity for work has been previously and is regularly established (hereinafter: Ordinance) recognizes three levels of health capacity: capable, temporarily incapable, and incapable. However, a specialist in occupational medicine established the non-applicable "capacity with restrictions of work in the Fresh Goods Department", and beyond her authority she even called the potential employer, pointing out to him that the complainant must not work with fresh food. Since after that he was eliminated from the selection procedure, the unprofessional and unlawful conduct of the doctor resulted in discrimination on the ground of health. However, the doctor from the Croatian Institute for Occupational Health and Safety justified her action by her good intentions. In order to avoid such situations, it is necessary to establish universal, standard health criteria to establish the health capacity for a job with special conditions of work.

In relation to the rigorous standards established by the Ordinance on the standards and methods of establishing special emotional and physical health capacity for persons being admitted into the police and police officers, and on the composition and manner of work of the health commission in authorized health institutions, about which we wrote earlier, and in order to remove all potential discriminatory contraindications, its analysis is under way, after which the MI will begin necessary amendments.

RECOMMENDATIONS:

111. To the Ministry of Health, in cooperation with the Croatian Oncological Society, to adopt and ensure the application of standard guidelines for treating oncological illnesses, which will be applied equally in all health institutions;
112. To the Ministry of Health, in cooperation with other competent bodies, to establish universal, standard health criteria, which will be applied when establishing the health capacity for a job with special conditions of work;
113. To the Ministry of Health and the Croatian Health Insurance Fund, to finance drugs in an equal manner from the list of expensive medication, regardless of the diagnosis;



114. To the Ministry of the Interior, to complete work on the analysis of contraindications for registration in the Police Academy, and in line with what is established, to amend the Ordinance on the standards and methods of establishing special emotional and physical health capacity for persons being admitted into the police and police officers, and on the composition and manner of work of the health commission in authorized health institutions;

3.19. EDUCATION

"I am writing to you in relation to the award of the title "professional specialist", which has been proven to be unrecognised on the labour market in the RC. Instead of the usual title of Master (MSc/MA) we are awarded the meaningless title "professional specialist" which no employer recognizes, whether in Croatia or in Europe..."

In the higher education system, it is particularly important to achieve social equality by providing equal access to education to all, under equal terms. Investment in students' standards is directly linked to one of the main strategic goals of the Strategy of Education, Science and Technology, by which higher education should be accessible to all according to personal abilities. Research shows that the main source of financing students is the family, with more than 80% of the costs, which is especially difficult for families with low incomes. According to figures from the MSES in 2015, a total of HRK 2.766.867,700 was spent on higher education from the state budget, of which most was spent on the salaries of employees and material costs, whilst only 8.17% of the total higher education budget was spent on subsidising tuition fees. The next most important item in the context of achieving social equality for students is certainly subsidies for student accommodation, which only 11% of students in the RC receive. For the sake of comparison, in Slovenia 16%, in Hungary 25%, and in Sweden 31% of students receive this kind of subsidy.

The complaints received in 2015 show that one of the most important problems of the current system of higher education is the quality of the study process in the context of its alignment with the labour market. Students express a series of criticisms about the Bologna system and point out the lack of alignment of the competences acquired within the system with the competences recognized on the labour market. Students and student organizations also complain about the insufficient recognition of bachelor degrees on the labour market, which is the result of the lack of alignment of the structure of the educational cycle with study programmes.

In the higher education system, it is particularly important to achieve social equality by ensuring equal access to education to all, under equal conditions.

Through documents adopted at an international and European level, linking education policies with employment policies has been expressed as a priority. Therefore, it is vital to introduce



continual practical teaching by linking institutions of higher education with the private, public and civil sectors to ensure that students, upon completing their studies, are better prepared to enter the labour market.

During the reporting period, we received a large number of complaints about the transparency of allocations of student scholarships by units of regional and local self-government. The complaints related to the unclearly defined conditions for awarding scholarships, and the imprecisely defined deadlines for submitting the necessary documentation. Problems were also noticed in the receipt of application documentation, when officials did not issue any certificate of the number of documents received, which made it impossible to prove that the documents submitted were complete, meaning that the complainant was eliminated from the application procedure.

RECOMMENDATIONS:

115. To the Ministry of Science, Education and Sports, to increase spending aimed at subsidising student accommodation for socially at-risk students;
116. To institutes of higher education, to align the content of study programmes with vocational and professional standards using the Croatian Qualifications Framework;
117. To institutes of higher education, to systematically conduct practical teaching by linking students and other stakeholders in society;
118. To units of regional and local self-government, to conduct the procedure of allocation of scholarships transparently, with clearly defined criteria and deadlines when publishing a call for applications;

3.20. DISCRIMINATION IN THE FIELD AND ON THE GROUNDS OF EDUCATION

Most complaints received regarding possible discrimination in the field and on the grounds of education indicate the problem of employment in the higher education system. The Act on Science and Higher Education (hereinafter: ASHE) prescribes the obligation of publishing a

According to figures from the Young Scientist Network, 48.2% of the surveyed postdoctoral scholars employed in the system of science and higher education believe that recruitment in the system is not transparent, and 49.6% consider that the system is unfair.

public call for applications, but, does not elaborate the application procedure, nor does any other act. Prescribing the requirements for individual positions, and the conduct of the application procedure, is left to the universities or faculties themselves. However, as a rule they do not have a detailed systematization of positions with an elaboration of the requirements which need to be met for each of them. Therefore, in the calls for applications, requirements are given which are not prescribed anywhere, whereby the possibility arises for manipulation of the entire application procedure and its alignment with the qualifications and competences of a specific person. It was also noticed that a call for applications



was published with the initials of the persons who were to be admitted into a position in the higher education system. This is a violation of the principle proclaimed in the Constitution of access to public services under equal terms, and the obligation of publishing a call for applicants is reduced to a mere formality. Participants in the application procedure are placed in an unequal position, which results in complaints of possible discrimination on the grounds of education. According to figures from the Young Scientist Network, 48.2% of the surveyed postdoctoral scholars employed in the system of science and higher education believe that recruitment in the system is unfair. Only every second participant believes in the transparency and fairness of their own institutions regarding employment. Nevertheless, the deans in these situations as a rule deny discrimination, and continue with the established way of publishing calls for applications.

The complaints pointing out this problem also opened up the question of the bodies competent for supervising the lawfulness of employment in the system of science and higher education. Although the ASHE expressly authorizes the MSES to implement administrative supervision of the lawfulness of the work and general acts of institutes of higher education, and the minister is given authority to institute misdemeanour proceedings against legal persons who conduct appointments to positions and the award of titles without respect for the prescribed procedure, the nature and scope of the administrative supervision are doubtful. While emphasizing the autonomy of universities, the MSES also requested a statement on this from the universities and the opinion of the Ministry of Public Administration. Whilst we have never received any statement from the universities, despite several similar complaints, the MPA denies that it has competence for giving an opinion on the application of the special acts, which is under the competence of another central body of state administration. Although through the implementation of administrative supervision it is authorized to order the adoption of a general act, which will, in line with ASHE and the university statute, prescribe the special requirements for each systematized position at institutes of higher education, the MSES points out that misdemeanour proceedings can only be instituted on the basis of a finding by the Labour Inspection Service.

Faculties, as a rule, do not have a detailed systematization of positions with an elaboration of the requirements which need to be met for each of them.

According to an analysis by the Education, Audiovisual and Culture Executive Agency of the EU (EACEA), one of the positive things about higher education in the RC is the relatively high proportion of students in professional studies. However, the labour market does not recognize them sufficiently. Despite the recommendation in last year's report, the type of education for individual positions is still not aligned with the Croatian Qualifications Framework and the Bologna system, whereby the suitable employability of graduates of professional and vocational bachelor and specialist graduate studies would be ensured.



The requirements and classifications of positions in relation to the level and type of education attained should be built exclusively on decisions stemming from the ASHE and Bologna titles. Despite this fact and despite our recommendation in last year's Report for the professional requirements needed for performing the work of professional supervision of the work of driving schools and examiners for the subjects of Traffic Regulations and Safety Rules and Driving a Motor Vehicle to be aligned with ASHE through amendments to the Road Traffic Safety Act, this has still not been done. Consequently, graduates of the specialist graduate traffic studies course are still not able to do these jobs.

In the context of mobility of people, goods and services, the professional title attained upon completion of professional studies, e.g. professional specialist in the engineering profession, is also questionable. Such titles are not even recognized on the national labour market, let alone on those of EU Member States. Therefore, in order to equalize opportunities on the labour market, the MSES accepted the initiative to standardize the titles of professional and academic studies, which, according to the information available, should be implemented in the course of this year.

Additional problems are also caused by the still present non-harmonization of legal terminology, for instance the Act on Salaries in Public Services which still, despite our recommendation from the Report for 2014, uses the abandoned terms VSS, VŠS and SSS (university degree, college degree and secondary school education) to designate levels of education.

The fragmentation of universities in the RC, which function through mutually independent faculties, has a negative effect on student mobility, although this is precisely a key element of the Bologna declaration. The fact that almost all graduate study courses require the completion of a precisely defined undergraduate course can be seen as one of the triggers of discrimination on the grounds of education.

In view of the model already mentioned, according to which 80% of the costs of higher education are covered from the family's own resources, it is no wonder that in the Croatian education system students from families with lower levels of education and weaker financial status are still noticeably poorly represented. According to figures from Eurostudent research, at universities there is an excessive proportion of students whose parents graduated from university themselves, whilst there are very few whose parents only completed elementary school. Due to such statistics, Croatia is listed in the worst category of socially exclusive systems of higher education, and the fact that these trends have persisted over many decades illustrates the established elitism in higher education.

The possibility of free studies is mainly based on regularly meeting student obligations. Not following the pace of real life, this system neglects the heterogeneous character of the student population, and places in the best position those for whom support is least necessary. In other words, the obligation of compulsory attendance of classes, which is especially emphasized, makes it difficult for students to work, although for people from families with a lower material



standard, work is very often a requirement for studying. The obligation is also emphasized to meet faculty obligations. Students who, due to illness, pregnancy, disability or distance from the place of study, are forced to be absent from classes face the risk of losing their student rights.

Croatia is one of four EU states where part-time students pay higher tuition fees than full-time students. If there is no reasonable, objective and justification legitimate for this practice, it may lead to discrimination.

According to the analysis mentioned by EACEA, Croatia is one of four EU states where part-time students pay higher tuition fees than full-time students. If there is no objective and reasonable, legitimate justification for this practice, it may lead to discrimination.

One of the problems in the higher education system is also the lack of control of the work of teaching staff in holding classes, which in many cases are completely given over to junior researchers. Mentors engage PhD students, and then do not work with them to a sufficient extent.

This practice, alongside the question of conducting good quality classes and scientific activities, also raises the question of the excessive workload of junior researchers, who are not certain to remain in the higher education system, and for which they are not paid, which again indicates possible discrimination.

We also received complaints indicating possible discrimination on the grounds of education in the system of professional training without commencing employment, in relation to those who have completed secondary school education, especially gimnazija. For example, the Labour Act prescribes that professional training without commencing employment may be received only by a person who has completed education for an occupation whose performance is conditioned by a professional examination or work experience. However, although for attaining the occupation/title of archive technician the requirements are prescribed of completed secondary education, one year's work experience in the profession and the examination for the profession of archive technician, the complainant, with completed general gimnazija education, was denied the right to training without commencing employment because the Management Board of the CES established that those completing gimnazija education could only be given approval for training in bodies of state administration or units of local and regional self-government. This interpretation was justified by the LA, which has been amended in the meantime, so the disputed interpretation needs to be corrected and those who have completed general gimnazija should be permitted to undertake training in all cases when the requirements prescribed by the LA are met.

Unfortunately, despite having been pointed out repeatedly on many occasions, the regulations prescribing the appropriate type of education for secondary and elementary school teachers and professional associates have still not been adopted, although the deadline expired on 25 July 2009. Therefore, the unequal position continues of professionals who did not study at



faculties of humanities and social sciences, and their titles are not recognized by the old Regulations, which are still being applied.

RECOMMENDATIONS:

119. To the Ministry of Science, Education and Sports, to ensure, by using its authority for supervision of the lawfulness of the work and general acts of institutes of higher education, in cooperation with the universities, that in calls for applications for employment in the higher education system, special criteria are applied, which are defined by a general act of the university or individual faculty;
120. To the Ministry of the Interior, to enable, through amendments to the Road Traffic Safety Act, the employment in driving schools of graduates in the appropriate specialist professional graduate course, as authorized examiners;
121. To the Ministry of Science, Education and Sports, to standardize the occupational and professional titles attained upon completion of academic and professional studies;
122. To the Ministry of Science, Education and Sports, urgently to adopt regulations on the appropriate type of education for elementary and secondary school teachers and professional associates in elementary and secondary schools;

3.21. DISCRIMINATION ON THE GROUNDS OF RELIGION

"It is sad, but from my own experience I have to say that doctors in this clinic discharge patients without a word who for religious reasons do not want to receive blood transfusions, even if those patients do not have any alternative in Croatia... If I had noticed just one case where doctors at this clinic cared about finding a solution, I would not have come to you for help".

Discrimination on the grounds of religion is placing people in an unequal position due to their beliefs or religious convictions, expression of faith or even a non-religious world view, and it is seen in direct or indirect unfavourable treatment which leads to differences in the position and possibilities for equal participation in social life and in the exercise of the rights of believers or persons who do not ascribe to any faith.

This year again the trend continued of a small number of complaints of religious discrimination, especially by members of the majority religious community. Apart from complaints by citizens, figures collected by religious communities and information published in the media serve as a source of information on the status of religious freedom and tolerance of religious differences.



Graduation parties and other events organized by schools in which all pupils, their parents and teachers participate should be organized with respect for the legal standards on the equality of citizens and the freedom of expression of religion.

Despite the growth of Islamophobia in Europe and the world, as a result of the intensified migrant crisis and political events in the Middle East, the position of members of the Islamic religious community in Croatia has remained unchanged, thanks to its long tradition. Its members are well integrated into society and report that "despite the negative political and social events on the world stage, and in society as a whole, and tendentious media reporting and individual statements", no complaints were recorded by its members. However, a media source published a statement by a young Franciscan monk who published video recordings and other content on social

networks in which he directly spoke negatively about Islam. We requested action by the competent state attorney office and a statement by the Croatian Bishops' Conference, but at the time of writing this Report we have no knowledge that those statements were sanctioned in any way.

Complaints by NGOs who protect the rights of non-religious persons indicate that some aspects of society are permeated by Catholic elements. That is to say, if social standards stemming from the religious customs of the majority, such as prayer, the blessing of food and going to mass, become formal obligations at work, school or other places, they may represent unequal treatment of persons who are not members of the majority religion. So, at a graduation party the rite of blessing the food and prayer was practised, although some students and teachers were against it. The graduation committee was informed of their attitude, as a result of which a new decision was rendered on the official programme of the party, from which the religious rites were omitted, but in the end, they were performed, without any announcement. Acting in this way, despite the previously clear expression of opposition by some pupils and teachers, the co-organizers of the graduation party ignored the fact that it was their choice not to participate in a religious rite. Graduation parties and other events organized by a school in which all pupils, their parents and teachers participate should be organized with respect for the legal standards on the equality of citizens and the freedom of expression of religion.

Some minority religious communities, which do not have a long tradition in the RC, come across a lack of understanding of their specific requirements, which may also lead to discrimination and violation of their rights. This has been encountered by members of the Jehovah's Witnesses religious community, when they have tried to exercise their right to health care in line with their religious beliefs. In one case, the complainant refused to give consent for a blood transfusion if there were any complications during a surgical procedure. As a result, the specialist orthopaedic surgeons at the Orthopaedics Clinic invoked their own conscience and suggested that, if she stood by her decision, she should exercise her right to health care in some other health care institution. However, apart from the fact that invoking one's conscience is an individual and not a collective right, it is the obligation of doctors to inform patients in good time of their conscience, and refer them to another doctor of the same specialisation, but that



was not done here. Therefore, it was not sufficient to inform the patient of the conscientious objection of all the doctors in one clinic and to suggest that she exercise her right to health care in another institution, but she should have been provided with a service within the same clinic, or been referred to another hospital, to a specific doctor of the same specialisation. This case is not an isolated example, but since for now there are no indications of a systematic solution to this problem, we have written more about it in the chapter on health care.

Minority religious communities come up against unequal treatment both in relation to the majority religion and each other. Despite the equality of religious communities prescribed by the Constitution, the Act on the Legal Position of Religious Communities prescribes that those with fewer than 500 members cannot even be registered as religious communities, but as citizens' associations, as a result of which their members do not have the same rights as representatives of those who are registered in the register of religious communities and/or have an agreement concluded with the RC, regulating their mutual rights and obligations.

However, there have been some positive changes in the position of minority religious communities. That is to say, after we pointed out in earlier Reports the formal interpretation of legislation, the Tax Administration corrected its practice, which had previously resulted in unequal treatment of smaller religious communities. According to the opinion of the Tax Administration of 2005, exemption from payment of property transfer tax upon the acquisition of religious premises was only possible if this was a matter of the purchase of existing religious premises, or land to build them, but not also for the purchase of an apartment or business premises for the performance of religious ceremonies. However, this was supplemented by a new opinion, according to which in each specific case, when a religious community acquires real property, it will be necessary to establish the purpose for which the real property in question will be used, in order to establish the right to exemption from the obligation to pay tax, which will be proven by a permit to change the purpose and use of the building, or a statement by the tax payer that it will submit the permit subsequently.

RECOMMENDATION:

123. To educational establishments, to organize events intended for all pupils, parents or teachers with respect for the legal standards on the equality of citizens and the freedom of expression of religion;

3.22. PUBLIC DISCOURSE

After the fatal attacks on French journalists in January 2015 due to a caricature published in a satirical magazine, new challenges such as the refugee crisis, and the growing Islamophobia in Europe, but also the presidential and parliamentary elections in the RC, the boundaries of what



is permitted in public expression has become the subject of interest of a large number of citizens, especially because it is not always easy to define.

Public expression may also involve the commission of a criminal offence: public incitement to violence and hatred, which is prosecuted *ex officio*, because it affects the social community and represents hate speech in the narrow sense, but also some other criminal offences, such as those against honour and reputation.

The ECtHR points out that speech which spreads hatred, intolerance and calls to violence founded on intolerance is not protected by freedom of expression referred to in Article 10, paragraph 1 ECHR. At the same time, it is necessary to differentiate real and serious incitement to extremism and violence, from the rights of individuals to freely express their opinion, even if in that way they insult, shock or disturb.

Neprihvatljiv i diskriminatoran govor, kao i prijašnjih godina, bio je usmjeren ka pripadnicima nacionalnih manjina te prema političkim protivnicima i ideološkim neistomišljenicima, a u 2015. i prema izbjeglicama.

The national case law is still modest in relation to the criminal offence of public incitement to violence and hatred. Statistical data on it are collected by the MJ, pursuant to its obligations under the Anti-discrimination Act and the Office for Human Rights and the Rights of National Minorities, pursuant to the Protocol on conduct in cases of hate crime, although it does not represent a hate crime pursuant to the CC⁶, which may lead to variations in statistical data. According to the data from the Office for Human Rights and the Rights of National Minorities for 2015, one final judgment was rendered (the MJ mentions two judgments), six criminal complaints were dismissed, and nine proceedings are pending. Hatred on a national and/or ethnic basis and due to sexual orientation is dominant. A conviction was rendered due to comments on a Facebook profile: "Kill, massacre, eliminate the queers! Hey, Hitler, rise up for just five minutes and resolve the burning problem of queers in the world! Don't touch the niggers because we will send them back into the trees and give them bananas!"

These data show that hate speech as a criminal offence is still not recognized, which is also pointed out by civil society organizations. Due to erroneous decisions and conduct in the assessment of lower ranking state attorneys, at the end of 2015 the State Attorney's Office (hereinafter: SAO) of the RC launched an analysis of new decisions rendered from 1 January 2013 to 1 September 2015. The reason was the dismissal of a criminal complaint for the statement "queers to concentration camps", with the explanation by the competent state attorney that the author published this statement under the influence of mass hysteria, but also a serious warning by the EU commissioner for the justice system to Member States that the fight against racism, xenophobia and hate speech was their statutory and moral obligation. We do not have any official results of the SAO analysis nor do we know whether and how they

⁷ Hate crime is not an independent criminal offence. Criminal offences are committed out of hatred if they are committed due to the characteristics of the victim as prescribed by the law. This conduct by the perpetrator is an aggravating circumstance when a penalty is imposed.



were analysed, linked and placed in the context of individual statement by persons from public life/politicians, with criminal offences linked to causing bodily injury, damage to property, etc., which were motivated by prejudice, and which were committed after such speeches.

Apart from the criminal offence of public incitement to violence and hatred, there is an entire range of unacceptable and discriminatory speech, which is also known as hate speech in the broader sense, but it is not subject to criminal but to misdemeanour, civil, professional or public liability/prosecution.

Unacceptable public speech in the RC is mainly punishable as a misdemeanour. For displaying symbols or performing songs, such as drawing swastikas or singing "Evo zore, evo dana", punishment is possible under the Act on Misdemeanours against Public Order of 1994, in which the penalties are prescribed in DEM, but also pursuant to Article 25 ADA, with a significantly higher fine prescribed, which contributes to legal uncertainty, which we write more about in the chapter on judicial cases related to discrimination. From the motion to indict under the ADA it can be seen that the police in the largest number of cases bring charges for shouting and swearing for nationalist reasons, "waving three fingers" or insulting the police.

Eleven citizens were prosecuted for harassment as a misdemeanour under the ADA, who verbally attacked the director of the Croatian National Theatre and those present at a panel discussion in Rijeka, when two journalists were also attacked. The attackers of the journalists were accused of disturbing the peace and not harassment. When indicting, the prosecuting bodies should have taken into account the circumstances and mutual dependence of some incidents, especially since after verbal violence comes physical violence.

The salute "Za dom spremni" is spread all over the social networks, but some still try to present it as patriotic, regardless of the fact that it was used to express support of the Fascist regime. According to incomplete and unofficial figures of 2010, 13 convictions were rendered for this salute, including that of a national team football player, the end of whose playing career was marked by this incident and by international condemnation. At the same time, two acquittals were also rendered.

Symbols, graffiti and other messages are also used in communication. The creators of the swastika on the grass of the Poljud stadium have not been found since 2015, nor those of the graffiti "Ubij Srbina; smrt četnicima" (Kill the Serb, death to Chetniks) on the Orthodox Church in Vinkovci. It is not known whether the writer was found of the graffiti "Kill the Serb" on the busiest bridge in Zagreb, which high-ranking guests of an international event passed by on their way to their hotel in November 2015. This graffiti was not removed on that occasion, in contrast to the graffiti, "Open the borders for all - Otvorite granice za sve", written on the roof of an alternative culture facility, in the immediate vicinity of the hotel where they were staying.

Messages to those with different political and ideological ideas were also sent by means of "ethnic trials", and an internationally recognized human rights activist was also "tried for high treason" for dealing with issues of facing up to the past, including responsibility for war crimes.



Indeed, human rights activists are often the targets of hate speech and their property is destroyed.

The speech of politicians and public figures

Due to the campaigns for the presidential and parliamentary elections in 2015 there was an abundance of unacceptable and discriminatory statements by politicians, which do not contribute to creating a tolerant atmosphere and the conditions for living in community. For example, the statement that the support of like-minded people gave him strength to "fill his batteries", although battery acid was precisely the means used to kill one of the victims of the crime he was charged with, or lining up a party's army in front of the Croatian Parliament building, without visible Fascist symbols, but with sufficiently recognisable iconography, are examples of unacceptable political messages. In the decision *Vona v. Hungary* (2013) the ECtHR indicated that it was permissible to restrict the freedom of association and speech when there was a case of aggressive and provocative conduct by participants which intimidates citizens and through which demonstrators create a climate of violent demonstration and potential readiness for violence. Vona was the president of the Hungarian defence association with formed the Hungarian Guard Movement, whose members demonstrated in uniforms throughout the country, including in Roma villages. Although the marches did not end in violence, the ECtHR pointed out that non-verbal calls to violence and hatred have serious consequences due to the circumstances in which they take place, and whether or not violence occurred was not a decisive factor.

Individual cases of abuse of the right to freedom of expression of religion still occur, when sermons become political speeches. The omissions of state and church authorities to condemn statements made in sermons in Boričevac in July 2015 on the relativization of victims of the Jasenovac concentration camp generate further unacceptable speech in public, and lead to deeper divisions in society, but also show Croatia in a negative light.

Freedom of political expression is no justification for hate speech. Politicians and other public figures should take into account the consequences their statements may cause.

The arrival and short-term care of refugees in Croatia in the political sphere at first was mainly discussed as a humanitarian crisis, but in time the emphasis shifted to the security problem and differences were increasingly underlined, signifying that citizens should not only be careful, but also afraid of refugees. According to the ECtHR, political speech enjoys the highest level of protection, but it is not absolutely protected, nor is the freedom of political expression justification for hate speech.

In the case *Le Pen v. France* (2010), the ECtHR deemed the fine imposed on a politician to be justified, since he stated that the French should be afraid of the time when 25 million instead of 5 million Muslims would live in France, because they would then take the lead. The ECtHR emphasized that such commentaries presented the entire Muslim community in a disturbing light, which could prompt feelings of hostility and rejection,



since the rapid increase in their numbers represented a latent threat to the security and dignity of the French people.

Politicians and public figures should take into account the consequences their statements may cause. Although these were apparently unconnected situations, it should not be overlooked that not long after an interview with a Member of the Croatian Parliament, in which he spoke about Muslims and people from Africa and Asia as a security problem and a threat, in Korenica a young black man was attacked. Presenting others and those who are different in a negative context may create a hostile and degrading environment, and in extreme cases even incite criminal behaviour.

The role of the media

We have already reported on media reporting of national minorities and human rights, but still some of their articles are full of prejudice, for example about Roma people who steal immortal flowers on the Croatian islands. After the publication of such articles on internet sites, there is a flood of comments, some of which border with hate speech.

When monitoring the media in the election campaign from 1 October to 31 December 2015, GONG stated that unacceptable and discriminatory speech was most frequent in texts on the refugee crisis and migration, then on subjects related to inter-ethnic relations, and there was a high percentage of statements rehabilitating or relativizing Fascism. To a slightly lesser extent, there was some intolerance on the subject of gender or sexual orientation, and a campaign was also noted against the "parasites" (uhljebe) in the public sector, attacks on reproductive rights and questions of secularity and religious freedom.

In 2015 the Council of Honour of the Croatian Journalists' Association rendered many decisions on violations of the Statute and Code of Ethics. It sharply condemned the editors and presenters, a journalist and the editor-in-chief of a controversial programme, because, without giving the source of information and valid evidence, they published the full name and surname of a person who had allegedly committed a certain crime, who was a member of the Serb national minority, whereby he and his family were exposed to public death threats, insults and hatred, and they live in fear of their lives and property. After the police report was published, according to which the person in question was not linked in any way with the specific crime, they did not publish any correction, nor did they apologise publicly.

The Electronic Media Council (EMC) may also caution and reprimand publishers for hate speech, temporarily or permanently remove their concession, and may not allocate resources from the Pluralism Fund to those who have received a caution or a misdemeanour penalty for violating the Electronic Media Act. However, in view of the fact that the spread of hatred and discrimination continues, the EMC should be given an adequate legal framework, with the possibility of imposing large fines, and of filing motions to indict, but also political independence.



Due to violations of the provisions on prohibition of incitement to and spreading of hatred and discrimination in the Electronic Media Act, in 29 cases the EMC issued four cautions for comments regarding believers of the Islamic faith, under the text, "Hostage Crisis in a Sydney Cafe", and also for spreading and inciting hatred in an audio recording of a speech published on the web as part of the text; "Parents of the Fallen Homeland War Veteran from the Nova Gradiška area - an example to us all", and for broadcasting songs that incite hate against Serbs on the anniversary of the establishment of the NDH and the failure to react by the presenter and editor of the programme "Zajedno u ratu, zajedno u miru" (Together in War, Together in Peace).

Four cautions were issued to the same web portal for spreading and inciting hatred, for the texts: "Who actually works on television and why is it a stronghold of the Serb minority?", and "Caution! Hell is no joke: The dead in Paris wanted to kiss the devil!", whilst in the case of the texts, "We reveal: The secret plan of Jews who rule the world: The war in Ukraine was caused by the 'devil's tribe' in order to raise another Jewish state", and "Go Croatia - to new chaos", the State Attorney's Office was informed but we have no information that it took any action, and whether any elements of a criminal offence or misdemeanour exist which are prosecuted ex officio.

The Internet

On websites and social media, insults are still published under pseudonyms, discrimination and hatred are encouraged, and such comments are not removed in good time because there are so many of them. However, there are also different examples, and it is encouraging that the administrators disabled the site "Lijepom našom" after comments on refugees were published: "A bit of gas and well-insulated rooms, and the problem of so-called Refugees is solved", or "We need Hitler again, Putin won't be enough this time".

In the Decision *Delfi AS v. Estonia* (2015), the ECtHR established the liability of a commercial website for readers' comments inciting violence and hatred, which represented hate speech. We have also pointed out the liability of portals for many years, and this was also indicated in the Draft Proposal for media strategy of the Ministry of Culture of September 2015, which has not yet been adopted.

Sport

As in previous years, unacceptable and discriminatory expression is prominent at football matches. UEFA penalized the national team for shouting "Za dom spremni" at the Croatia-Norway match in Zagreb, and for the swastika drawn on the grass of the Split stadium, by making them play without spectators, deducting points and a large fine. HNS (the Croatian Football Federation) also imposed fines on the following clubs: HNK Hajduk 16 times, HNK Rijeka 11, GNK Dinamo eight, NK Osijek three, and NK Istra and RNK Split twice each for shouting discriminatory insults based on nationality or some other basis, in a range of from HRK 6.000



to HRK 35.000. UEFA penalized HNS with a fine of EUR 50.000 for shouting "Za dom spremni" at the Croatia-Norway match, and EUR 100.000 for the swastika on the grass of Poljud in Split. It is paradoxical that projects are run to combat racism, prejudice, discrimination and violence in football, and, at the same time, large fines are being paid precisely for those things.

This situation will not be resolved by repression (alone), and the heads of the HNS must show by their actions that they distance themselves from unacceptable behaviour and iconography that does harm to Croatia.

RECOMMENDATIONS:

124. To the Ministry of Justice and the Office for Human Rights and the Rights of National Minorities, to jointly revise the way data are collected on the criminal offence of public incitement of violence and hatred;
125. To the Ministry of the Interior, to work continually to educate police officers on misdemeanour and criminal liability for offences related to hate speech, and other criminal offences and misdemeanours related to discrimination;
126. To the Ministry of Culture, to draw up draft amendments to the Electronic Media Act so that the spreading of hatred and discrimination will be prescribed as a misdemeanour;
127. To the Office for Human Rights and the Rights of National Minorities, to conduct systematic education of editors and journalists on forms of discrimination and the role of the media in combating discrimination;

3.23. PROPERTY RIGHTS

Housing

Continuing the trend from the previous years, in 2015 most of the problems encountered in practice and most of the justified objections coming from the citizens, apartment owners' associations and the protected tenants derived from the fact that the relations between the protected tenants residing in private apartments and the apartments' owners are still not regulated in a comprehensive manner. Namely, the Constitutional Court decision No. U-I-762/1996 of 1998 repealed a significant number of the provisions of the Apartment Lease Act (hereinafter: ALA) and the legal gaps thus created have not been amended yet. The legislative changes in question cancelled the apartment owners' obligation to provide other adequate housing for the protected tenants, resulting in a high number of lawsuits to evict the protected tenants and their subsequent evictions.

Numerous cases were brought before the ECtHR by the apartment owners and a number of judgements were reached, the most important one being that in the case of Statileo v. Croatia (2014), in which the court awarded damages to the plaintiff but also ordered the Republic of



Croatia to regulate the matter at hand by taking appropriate legislative measures. In spite of that, the new ALA has not been adopted yet.

A number of proceedings have been instituted before the ECtHR by protected tenants as well invoking the right to a home as a procedural right of an individual facing an eviction, established by the ECtHR in its judgements such as *Bjedov v. Croatia* (2012) and *Brežec v. Croatia* (2013) and requiring the domestic courts to implement the proportionality test when deciding in such cases.

As opposed to the protection of property as a substantive right in the contentious civil proceedings, such as in the case of *Statileo v. Croatia*, the right to respect for one's home is a procedural right of the party in the contentious or the non-contentious civil proceedings which obliges the judges to perform the proportionality test when reaching their decisions, in line with the criteria established by the ECtHR case law. The Constitutional Court of the Republic of Croatia took the same position in its decision No. U-III-2073/10 of 2012, establishing the duty of the civil courts deciding in the cases in which the plaintiffs claim that their eviction interfered with their right to a home to consider whether such a measure was proportionate and necessary with respect to the relevant principles comprising the right in question. In order to determine whether an eviction from one's home can indeed be deemed necessary in a democratic society the courts need to take into account the following: whether the apartment in question was indeed the plaintiff's home, whether their right to a home was violated, was the eviction based on the law and whether its purpose was legitimate. As far as we are aware, civil courts still do not apply the aforementioned criteria when reaching their decisions. Therefore, we recommend that the Judicial Academy organize training sessions for judges on this matter.

Construction

The complaints we received in the course of 2015 predominantly pertained to the following: the procedures for the legalization of the illegally constructed buildings and those for the issuing of the building permits, the protracted duration of the appeals proceedings conducted by the Ministry of Construction and Physical Planning (hereinafter: MCPP), failures to execute the orders for the removal of illegally constructed buildings issued prior to the coming into force of the Act on the Procedures Regarding Illegally Constructed Buildings (hereinafter: APRICB), the failure of the competent bodies to provide the information on whether the aforementioned orders will indeed be executed and when, the fact that the measures taken by the building inspection following the citizens' requests for the removal of illegally constructed buildings vary from one case to another, the failure of the inspection to provide the citizens with the information on the status of the case, to respond to citizens' complaints and requests and to provide concrete answers to their inquiries. The citizens also complained about the fact that the procedures to enforce the inspection's orders for the removal of illegally constructed buildings are performed in a non-transparent manner as well as the fact that they were not



able to obtain the information as to why such orders were not enforced in certain cases and whether and when they would be.

We would specifically like to draw attention to the problem of the enforcement of removal orders issued prior the coming into force of the Act on the Procedures Regarding Illegally Constructed Buildings. Namely, under the Act in question the execution of such orders is to be adjourned until the prior decisions allowing or banning the legalization of the buildings in question become final, which can take years.

According to the citizens' complaints, the MCPP provides only generalized responses to their inquiries related to the removal of the illegally constructed buildings on the basis of the decisions that have become final. In these responses the MCPP claims, for example, that "the executions of such decisions are being performed in line with the Ministry's annual plan", that "in the course of the following year the objects the removal of which is deemed purposeful or in the public interest shall be removed" but does not specify the meaning of the terms "purposeful" or "public interest".

The building inspection does not initiate the procedures to remove illegally constructed buildings on the basis of requests submitted by the citizens but on the basis of the Annual Enforcement Plan. The Plan is adopted by the competent minister and depends on his/her discretionary decision and the available budgetary funds. Instead, the MCPP should adopt an act establishing clear and transparent criteria for the regulation of the removal procedures and make it available to the public.

According to the MCPP's data, in the course of 2015 in 4.764 cases the legalization was permitted, in 131 denied, whereas in 3.829 of them building permits were subsequently issued and the legalization proceedings terminated.

Despite our last year's recommendation, the complaints we received in the course of 2015 indicate that the communication between the MCPP and the citizens has not improved. The only channel the Ministry utilizes to provide information to the citizens is its web page, which is insufficient. Both the Act on the Right to Access to Information as well as the General Administrative Procedure Act establish the obligation of the Ministry to respond to the petitions and complaints submitted by the citizens. Additionally, it is a necessary precondition to be fulfilled if the citizens' trust in the government institutions is to be regained. Regardless of the fact that removal procedures are not being instituted on the basis of the citizens' request, the citizens are, nevertheless, entitled to receive the requested information, especially if the procedures themselves are protracted.



Compensation for the Property Seized During the Yugoslav Communist Rule

“Taking into account the fact that I am 88 years old, ill, half-blind, unable to take care of myself and bedridden, I don’t know whom to turn to for assistance anymore. I cannot count on any help from lawyers, since they only care about how much money they’ll make. For 19 years I’ve been waiting for the property seized from my parents to be returned and I would like to know whether any kind of a solution can be devised for my problem.”

Despite being obliged to do so since 1997 under the Act on the Compensation for the Property Seized During the Yugoslav Communist Rule (hereinafter: Act on the Compensation) the Government of the Republic of Croatia has still not adopted the Regulation on the Special Compensation for Movable Property Items Considered Cultural Heritage Which are Integral Parts of Collections, Museums, Galleries and Other Institutions (hereinafter: the Regulation). Over 130 requests submitted to the state administration offices for the compensation for the seized movable property remain unresolved, most of them in the City of Zagreb (77) and in the Osijek-Baranja County (24). Increasingly often property owners wonder whether the Republic of Croatia has any real intentions of implementing the Act on Compensation and providing compensation to the owners of the movable property items some of which are significant historical artefacts and/or works of art. In 2015 the Ministry of Justice requested from the Ministry of Culture the data necessary for the Fiscal Impact Assessment – one of the mandatory steps in the drafting of the Regulation on Special Compensation for Movable Property, which is a positive albeit a belated move.

The Backlog of Second-Instance Cases Handled by the Ministry of Justice

Continuing the trend from the previous years, in 2015 most of the complaints submitted to the Ombudswoman by the persons eligible to receive compensation for the seized property pertained to the excessive duration of the appeals proceedings conducted by the Ministry of Justice and the failure of the state administration offices to organize hearings following the annulments of 1st instance decisions.

In the previous year the Ministry of Justice had a backlog of 255 appeals against first-instance decisions based on regulations no longer in force and pertaining to land consolidation, consolidation of holdings, expropriation and surrender of possession. In 2015 the new Act on Consolidation of Agricultural Land was adopted. Under the Act committees for land consolidation will be established as second-instance bodies in the counties experiencing backlogs of such cases, which is expected to speed up their resolution.



The fact that the legal and the factual data pertaining to a piece of real property (most commonly agricultural land) often do not match contributes to the protracted duration of the related procedures. Following the reaching of first-instance decisions and the lodging of appeals a piece of agricultural land can undergo various legal, administrative and/or physical changes which are then not entered into the land and the cadaster registers. Owner changes and changes in regulations can lead to changes in the size and shape of cadaster plots. Even the cadaster municipalities can change and the land can pass from one owner or land tenant to another. All of this can affect the duration of the second-instance proceedings, which now amounts to 25 months in average. Thus, measures such as the strengthening of the capacities of the competent bodies and the education of the experts should be undertaken to shorten this period. Continuing the trend from the previous years, in 2015 most of the complaints submitted to the Ombudswoman by the persons eligible to receive compensation for the seized property pertained to the excessive duration of the appeals proceedings conducted by the Ministry of Justice and the failure of the state administration offices to organize hearings following the annulments of 1st instance decisions.

The fact that the legal and the factual data pertaining to a piece of real property (most commonly agricultural land) often do not match contributes to the protracted duration of the related procedures.

In the previous year the Ministry of Justice had a backlog of 255 appeals against first-instance decisions based on regulations no longer in force and pertaining to land consolidation, consolidation of holdings, expropriation and surrender of possession. In 2015 the new Act on Consolidation of Agricultural Land was adopted. Under the Act committees for land consolidation will be established as second-instance bodies in the counties experiencing backlogs of such cases, which is expected to speed up their resolution.

The fact that the legal and the factual data pertaining to a piece of real property (most commonly agricultural land) often do not match contributes to the protracted duration of the related procedures. Following the reaching of first-instance decisions and the lodging of appeals a piece of agricultural land can undergo various legal, administrative and/or physical changes which are then not entered into the land and the cadaster registers. Owner changes and changes in regulations can lead to changes in the size and shape of cadaster plots. Even the cadaster municipalities can change and the land can pass from one owner or land tenant to another. All of this can affect the duration of the second-instance proceedings, which now amounts to 25 months in average. Thus, measures such as the strengthening of the capacities of the competent bodies and the education of the experts should be undertaken to shorten this period.

The State Property Management Administration

In 2015 the citizens submitted complaints related to the regulation of the ownership of real property partially or in its entirety connected with a piece of property owned by the state. The



issues in question are regulated by the Act on Management and Disposal of the State Property and are under the competence of the State Property Management Administration (hereinafter: SPMA). Due to the fact that various preliminary steps have to be taken before the SPMA can act and the procedure itself is quite complex its duration is generally protracted.

A case in point is the situation we encountered in the Roma settlement Josip Rimac in the town of Slavonski Brod. In order for the property relations in the settlement to be regulated and the houses to be legalized the legal relations between the co-owners of the land need to be resolved. Most of the land is owned by the state and a smaller proportion of it by its current land tenants and lease holders. After years of effort an agreement was reached according to which the town of Slavonski Brod took over the obligation to parcel the land, whereas the Council of the Roma National Minority and the Government's Office for Human Rights and Rights of National Minorities will agree on the manner of the transfer of the newly formed building plots to the final users and suggest to the Government to reach a decision to regulate the matter. As this example illustrates, when it comes to the procedures for the dissolution of co-ownership of real property it is important to achieve the cooperation of all relevant stakeholders, especially if these procedures involve and affect members of the vulnerable social groups.

To decrease the duration of such complex procedures the SPMA should continuously inform the citizens through all appropriate channels, such as its web page, printed flyers, via the local media, etc., about the documentation that needs to be attached to their requests to dissolve co-ownership of real property. The provision of public access to the Central Registry of State Property is a step in the right direction, despite the fact that the Registry is not yet connected with the Joint Land and Cadaster Register Information System run by the Ministry of Justice and the State Geodetic Administration. The connection between the two services would certainly increase the speed and the quality of the property related procedures and would cut on the red tape imposed on the real estate investors in the Republic of Croatia.

RECOMMENDATIONS:

128. To the Ministry of Construction and Physical Planning, to inform the citizens within the legally set time limits of the measures taken on the basis of their petitions;
129. To the Ministry of Construction and Physical Planning, to plan the removal of illegally constructed buildings in a transparent manner;
130. To the Ministry of Construction and Physical Planning, to draft the Apartment Lease Act and submit it to the Parliament for adoption having previously conducted the consultations with the public concerned;
131. To the Judicial Academy, to organize training sessions for the civil court judges on the application of the proportionality test;



132. To the Ministry of Justice, to draft without delay and submit for adoption the Regulation on the Special Compensation for Movable Property Items Considered Cultural Heritage Which are Integral Parts of Collections, Museums, Galleries and Other Institutions;
133. To the Ministry of Justice, to urgently establish the county committees for land consolidation as second-instance bodies, in cooperation with the legislative bodies of the counties experiencing backlogs of land consolidation cases;
134. To the Government of the Republic of Croatia, to adopt a decision enabling the transfer of real estate without a fee to the current land lease holders in the Josip Rimac Roma settlement in Slavonski Brod;
135. To the Ministry of Justice, all state administration offices in the counties competent for the regulation of property rights, the SPMA and all organizational units of the State Geodetic Administration, to inform the citizens about the documentation that needs to be attached to their requests to dissolve co-ownership of real property in order for the cases in question to be resolved within reasonable time limits;
136. To the Ministry of Justice and the State Geodetic Administration, to step up their efforts to make the Joint Land and Cadaster Register Information System operational;

3.24. ENVIRONMENTAL PROTECTION AND HEALTH ECOLOGY

„... I am urging you to focus on the analyses that were supposed to be conducted. More specifically, in the 20-year period ranging from 1995 to 2015 only 4 out of the planned 240 analyses of the leachates were carried out. All of the samples were taken from the same holding pond – the only one in operation out of the 3 planned ones. At certain points during this period the level of mercury in the leachates was 217 times higher and the level of lead 72 times higher than the prescribed ones. It's unbelievable! We have sent numerous inquiries to both the environmental inspection service and to the Ministry of Environmental Protection but haven't received a single response...”

The Constitution of the Republic of Croatia lists environmental protection and the right to a healthy living as some of the highest values of the country's constitutional order. As such, they should enjoy a sufficient level of protection. However, the existing environmental laws are amended often and not harmonized with one another, creating a confusing situation for both the public as well as the experts in the field. More and more commonly the citizens complain about the issues related to environmental damage, waste management, the work of the inspections, harmful effects of pollution on human health, noise, exposure to electromagnetic radiation, environmental impact assessment procedures and physical planning. Their complaints show that the environmental protection measures are often not implemented, their implementation is not being monitored, sanctions are often not being imposed in cases when



they ought to be and the omissions that occur are difficult to correct. In some of the cases reported to us the environmental impact assessment was not conducted at all or was conducted after the physical planning and building permits had already been issued, environmental protection studies were altered in the midst of the administrative proceedings and adjusted to the developers' needs and not to the current status of the environment, lower-level regional plans were not harmonized with the higher-level ones and the Ministry of Construction and Physical Planning failed to introduce the necessary measures to address such situations.

When it comes to the projects with a possible environmental impact, especially those in the area of physical planning and construction, the fact that the Aarhus Convention is being only partially implemented in the Republic of Croatia makes the participation of the public concerned more difficult. However, non-formal citizens' groups and environmental NGOs are getting increasingly organized and active in advocating for a healthy environment and a healthy living in their local communities.

Our last year's recommendations in the area of environmental protection have been only partially implemented. The Environmental Pollution Registry's web portal (HNPROO) and the Environmental Pollution Registry's search page (ROO) are available for public use but are not easily searchable and do not provide access to the comprehensive quantitative data. In the Republic of Croatia health ecology is still not sufficiently developed. Health impact assessment (HIA) procedures prior to the construction of industrial plants are not mandatory but are being conducted occasionally, mostly as part of the environmental impact assessment procedures. Croatian Institute of Public Health's data show that the analyses of the impact of pollution on health are only being conducted after human health has already been seriously affected and the speciation of arsenic and mercury, which is a crucially important analytical procedure, is not being performed by any of the laboratories in the public health system. The Ministry of Health failed to draft a new Ordinance on the Protection from the Electromagnetic Radiation. Thus, we reiterate our last year's recommendation and suggest that the Ministry include the experts in the area of public health in the process.

Increasingly often the citizens complain about noise, mostly that coming from coffee shops and clubs during the night hours but also about the noise produced by loud machines and vehicles (such as compressors, trucks and airplanes) in densely populated areas. In 2015 we continued receiving complaints pertaining to environmental damage, most commonly warning us about the pollution of air and water. The fact that water is the environmental component most frequently affected by pollution can be corroborated by the data provided by the State Water Inspection Service: out of the total of 750 instances of pollution reported to this body in the course of the previous year 293 referred to water pollution. The number of complaints pertaining to the access to water is on the rise as well, indicating that an individual's ability to exercise this right depends on one's place of residence or the size of the town/village they inhabit, the household's revenues and the size of the local self-government unit's budget. To



illustrate the first point: in the Republic of Croatia the villages with populations of less than 50 inhabitants are not connected to the public water supply network. Furthermore, it is worth noting that the recommendations to Croatia under the UPR reporting procedure also refer to the accessibility and quality of the drinking and sanitation water, which we discuss in more detail in the chapter on the right to water.

We are receiving a growing number of complaints related to the work of various inspection services. In the past year the citizens were complaining about the fact that the inspectors announced their visits in advance and performed them during the times of the day when the levels of noise were the lowest, that they failed to notify the complainants of the results of the inspection, did not take the required measures, etc. Often the problem at hand falls under the competence of more than one inspection service, e.g. environmental, sanitary, building, fire inspection, etc., which makes it difficult for the citizens to navigate through the corresponding regulations, whereas the different inspection services often assert their incompetence in the case.

Irrespective of their subject-matter, most of the complaints we receive reflect the citizens' distrust of the government bodies and institutions. It stems from the problems the citizens are encountering in communication with the institutions, the fact that at times they are not receiving appropriate responses to their inquiries or complaints as well as from the obstacles they face when attempting to participate in the procedures that might affect their lives. A case in point is MENP's Ordinance on Data Secrecy (OG 79/07, 86/12). Under the regulation in question the inspection records were treated as classified information despite the fact that the Data Secrecy Act (hereinafter: DSA) only prescribes such a classification for the data important for the country's national security. The Ordinance was replaced by a new one in October 2015. The new document no longer treats inspection records as classified data but is, however, not accessible to the public. Since the Data Secrecy Act does not task the Office of the National Security Council with the monitoring of the content of the data secrecy ordinances adopted by the various state bodies this issue needs to be normatively regulated. Additionally, the Government of the Republic of Croatia should, in cooperation with Croatia's information commissioner, adopt an ordinance to regulate the criteria for the assignment of the various degrees of secrecy to different types of documents.

In 2015 two large projects captured the attention of the public: Plomin C, the project for the construction of a coal-powered thermo-electric power plant, as well as the plans for the exploitation of hydrocarbons in the Adriatic. In both cases the economic interests were put before environmental protection and the right to a healthy living and the implementation of both was postponed by the Government following campaigns organized by environmental NGOs and the decisions issued by the European Commission and the OECD. In the case of Plomin C a local-level consultative referendum was held in March 2015 but failed due to a low turnout. However, out of the 36% of the local community's population that did vote, 94% rejected the project. When it comes to the second project, the Government failed to investigate



its possible impact on the environment and the human health prior to adopting its decision in March 2014 regulating the issuing of the licenses and of the invitations for the public tender for the conducting of research and the exploitation of the hydrocarbons in the Adriatic. Only in January 2015 did it subsequently organize the consultations with the public concerned on the Strategic Study on the possible significant environmental impacts of the Framework Plan and Program for the Research on and the Exploitation of Hydrocarbons in the Adriatic.

Non-governmental organizations have been present and active in the field of environmental protection for many years now and have been undertaking activities such as reporting on the breaches of the legal provisions on the access to information and the participation of the public in the procedures that concern it, reporting on the adoption of the relevant implementing regulations, informing the public about the implementation of projects in the environment in line with the Environmental Protection Act and about the violations of the Act on the Right to Access to Information and the General Administrative Procedure Act. Recently, other organizations and institutions, such as Croatian Academy of Sciences and Arts' Scientific Council for Government Administration, Judicature and the Rule of Law and the newly founded Institute for Political Ecology (IPE) have become active in the field, promoting topics such as climate change, environmental migrations and the protection of the public good, which is a step forward in environmental protection.

"... my health has deteriorated, I have no energy left, no financial means to fight the corrupted government system... they want me to take over the prosecution for the reported/committed criminal acts against the general and public interest, property and the people of the Republic of Croatia – acts that are placing both the environment and human health in danger... none of the competent bodies has ever taken a deposition from me... none of them has collected any evidence in all of their supposed investigative procedures – the evidence they could easily have obtained had they acted in accordance with the national laws..."

At the global level the year behind us was marked by the adoption of the UN's 2030 Agenda for Sustainable Development – the first global agreement establishing a universal and comprehensive action plan based on the principles of equality and non-discrimination as well as the tenets of the universality, indivisibility, interdependence and interconnectedness of all human rights. The document integrates the ecological, social and economic dimensions with the aim of achieving sustainable development and focuses on the conservation of the natural resources and the protection of the planet from exploitation, pollution and degradation, laying the groundwork for the improvement of the environmental protection standards.

The Agenda has established 17 sustainable development goals and 169 interconnected targets focused on ending poverty, ending hunger, ensuring healthy lives and well-being for all, good quality education, gender equality, clean water and sanitation, access to affordable and clean



energy, promoting decent work and economic growth, promoting industry and innovation, building the infrastructure, reducing inequality, making cities and settlements sustainable, ensuring sustainable production and consumption, taking action to combat climate change, conserving oceans and seas, protecting terrestrial eco-systems, promoting peace and justice, building accountable and inclusive institutions and revitalizing the global partnership for sustainable development. Their achievement depends on the mobilization of all states and other stakeholders at the global, regional, national and local levels. At the EU level the Agenda will be incorporated into the Union's internal and external policies. Each of the member states will be required to develop, in the shortest possible period, a cohesive national sustainable development strategy with an integrated financial plan, whereas the implementation of the Agenda's goals and targets will be systematically monitored on all levels using global, national and regional indicators. All monitoring and reporting procedures at the global level will be overseen by the High-Level Political Forum on Sustainable Development (HLPF) in cooperation with the UN's General Assembly, the Economic and Social Council (ECOSOC) and other relevant bodies.

Following a conference in Mexico where they gathered to discuss their role in the achievement of the sustainable development goals the national human rights institutions (NHRIs) adopted the so-called Merida Declaration, stressing the importance of the application of the human rights based approach in all phases of the Agenda's implementation, monitoring and reporting. The same approach needs to be exercised in all situations in which the professed goals seemingly contradict those enshrined in the Agenda.

RECOMMENDATIONS:

137. To the Ministry of Construction and Physical Planning, to refrain from issuing permits until the environmental impact assessment is conducted, in cases prescribed by the law;
138. To the Ministry of Environmental and Nature Protection, to conduct and monitor the conducting of environmental impact assessments in the early phases of project planning and prior to the issuing of the permits related to physical planning and construction;
139. To the Ministry of Construction and Physical Planning, to implement Art. 6 of the Aarhus Convention and enable the participation of the public concerned in the procedures for the issuing of the physical planning and construction permits for the projects that might have a significant impact on the environment;
140. To the Croatian Environment Agency, to improve the searchability of the Environmental Pollution Registry's web portal (HNPROO) and the Environmental Pollution Registry's search page (ROO) and make the comprehensive quantitative data accessible to the public;
141. To the Ministry of Environmental and Nature Protection, in cooperation with the Ministry of Health, to introduce mandatory health impact assessment (HIA);



142. To the Ministry of Health, to provide the necessary normative and material conditions for the further development of health ecology and of the health impact assessment mechanism (HIA);
143. To the Ministry of Health, to draft a new Ordinance on the Protection From Electromagnetic Radiation in accordance with the Code on Consultations with the Public Concerned in the Process of Adopting Laws, Other Regulations and Acts;
144. To the Ministry of Environmental and Nature Protection, to make public its Ordinance on Data Secrecy;
145. To the Government of the Republic of Croatia, to adopt a cohesive national sustainable development strategy with an integrated financial plan and allocate enough funds for its implementation in line with the 2030 Agenda for Sustainable Development;



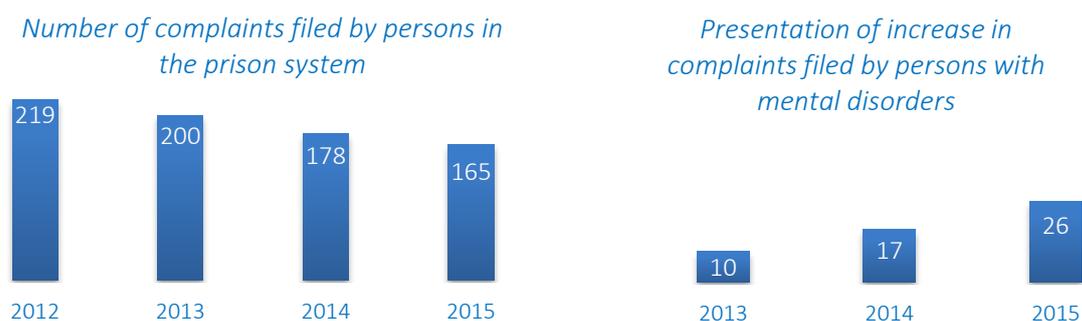
4. PERSONS DEPRIVED OF THEIR LIBERTY AND THE FUNCTIONING OF THE NATIONAL PREVENTIVE MECHANISM

Persons can be deprived of their liberty or their freedom of movement can be restricted (hereinafter, protection of persons deprived of liberty shall be deemed to include persons whose freedom of movement is restricted) in various systems: prison, police, military, social welfare, healthcare and the system for applicants for international protection and irregular migrants.

The Ombudswoman protects the rights of persons deprived of their liberty in two ways: by handling individual complaints and by preventive action, which involves visits of the National Preventive Mechanism (NPM). In 2015, we received 191 complaints and visited 62 locations in 72 NPM visits.

4.1. PROTECTING THE RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY BY ACTING ON COMPLAINTS

The Ombudswoman received complaints from prisoners, persons with mental disorders or members of their families and those deprived of liberty in police stations, asylum seekers reception centres and Foreigners Reception Centre. The number of complaints filed by persons deprived of liberty who were in the prison system in 2015 (165) is 0.7% smaller when compared to the previous year, which means that the trend of reduction of that number continues, whereas on the other hand, the number of complaints filed by persons with mental disorders is increasing.



While accommodation conditions in the prison system were the biggest problem according to the number of complaints in previous years, in 2014 and 2015 most of the complaints were connected with healthcare. In addition to these two problems, prisoners also complained with regard to efficiency of judicial protection, actions of judicial police and violation of their right to contact with the outside world. When it comes to persons with mental disorders, their complaints mostly pertained to involuntary hospitalization and performance of medical procedures without freely given consent.



4.1.1. Complaints filed by persons deprived of their liberty who are in the prison system

Healthcare

The quality of healthcare remains one of the most common reasons of complaints by persons deprived of their liberty. According to the records of the Central Office of the Prison System Directorate with the Ministry of Justice (hereinafter: COPSD), 19% of all the complaints filed to penal institutions in 2015 pertained to the provision of healthcare, which confirms the need for systematic and organizational changes in this field. A large share of the complaints still pertains to long waiting periods for physical therapy and to inadequate dental care. There is one complainant who had most of his teeth pulled out more than a year ago, in preparation for a dental prosthesis, which has not been made yet. Considering the fact that at meal time the complainant receives no other cutlery except the spoon, this creates major problems when eating.

The prisoners have filed repeated complaints with regard to the manner of execution of security measures of compulsory psychiatric treatment and compulsory addiction treatment. Those of poorer financial status complain of the obligation of having to pay participation in the costs of treatment and medications, and in some cases even refuse to take medications or they reduce the dosages on their own, in an attempt to reduce the costs of treatment.

There is one complainant who had most of his teeth pulled out more than a year ago, in preparation for a dental prosthesis, which has not been made yet. Considering the fact that at meal time the complainant receives no other cutlery except the spoon, this creates major problems when eating.

Non-smokers continue to complain about being put in the same rooms with smokers against their will, constantly exposed to passive smoking. Recently, there have been attempts by penal institutions to separate the smokers from non-smokers where possible, but in case of prisoners on remand and misdemeanour offenders this is often impossible. The situation in the Prison Hospital, the penal institution to which persons deprived of their liberty who require medical treatment are sent to, where smoking is allowed in rooms in which prisoners who are sick spend most of their day, is unacceptable. Therefore, we still insist on protection against passive smoking, for example, by designating special rooms for smokers, which would be available to them for most of the day.

One of constant sources of dissatisfaction among the prisoners as well as the reason for many complaints is the fact that prison physician still cannot issue referral slips and prescriptions for medications, with prisoners' elected physicians doing that instead. Some of them never get to see the prisoners, so primary healthcare is *de facto* provided by the prison physician, and in agreement with him/her, the elected physicians write referral slips and prescriptions, which, as a rule, leads to much dissatisfaction among them, as well. In the beginning of 2015 there was an arrangement between the Ministry of Justice, Ministry of Health and Croatian Health



Insurance Fund (CHIF) about finding organizational solutions that would enable prison physicians to issue referral slips and prescriptions, but this has not been achieved by the time this Report was made. Much of the difficulties that make providing of healthcare more difficult and represent a constant source of dissatisfaction among the prisoners, but also among healthcare providers would have been avoided if prisoners' healthcare were to be organizationally put under the competence of the Ministry of Health. This is discussed in more detail in the chapter on evaluation on the state of the rights of persons deprived of their liberty who are in the prison system.

Some of the prisoners complain about the quality of food, especially vegetarian, and some about the size of the meals in certain penal institutions, which they believe to be smaller than regulations require.

Several prisoners have also complained about lack of seat belts in special vehicles intended for transport of prisoners. Specifically, in the back of the special vehicle one can sit only on the side bench, without hand grips, often with one's hands and sometimes even legs bound, so in the event of sudden braking of the vehicle or changing the direction of driving most prisoners transported that way end up on the vehicle floor by the end of the ride, and sometimes get injured. The Road Traffic Safety Act does not indicate that it is allowed to be without a seat belt in this type of vehicle, and in the Government Regulation on Uniforms of State Officials in State Prison Security Sections, Prisons and Education Centres and in Official State Vehicles, there is no provision pertaining to equipment of the space designated for transport of prisoners, other than the fact that a special protective partition is required to separate the space for prisoners from the space for judicial police officers. Consequently, it is necessary to find an adequate solution with regard to installation of seat belts in all vehicles intended for transport of prisoners, in order to reduce the possibility of the prisoners sustaining injuries.

Accommodation conditions

In 2015, there has been a significant decrease in the number of complaints about accommodation conditions filed by persons deprived of their liberty who are in penal institutions. This can be explained by reduced overcrowding in the entire prison system. According to the records of the COPSD, occupancy rate in the prison system as at 31 December 2015 was 84.77%. However, in some prisons there is still the practice of accommodating more prisoners than the existing capacities allow: 125.86% in Rijeka County Prison, 111.29% in Zadar County Prison, 110.91% in Osijek County Prison, 109.00% in Varaždin County Prison, 106.25% in Požega County Prison and 102.20% in Bjelovar County Prison.

One of the main reasons for filing complaints is the violation of accommodation standards pertaining to space requirements, according to which there has to be 4m² and 10m³ of space provided for each prisoner in the dormitory. This is often the cause for prisoner's complaints to the head of the prison or the executing judge. Following the executing judge's decision on violation of rights, prisoners would be relocated to adequate dormitories. Apart from standards



pertaining to space requirements, persons deprived of their liberty also complained about lack of cleaning agents.

Filing of complaints and judicial protection

“I recommend that the Ombudswoman (...) initiate an investigative procedure, in particular due to the fact that the same violation is recurrent: rather than being an isolated incident, it has become a practice among officials also toward other prisoners who have lost the faith in justice and the rule-of-law state, which is why they do not see the purpose in addressing anyone, not even the Ombudswoman, considering the fact that there is no penalizing of those responsible and that each complaint of the officials’ illegal actions results in retribution, further withholding of rights, threatening and bullying by the officials against whom such complaints were filed as well as by their colleagues, who believe themselves to be untouchable and above the law.”

Even though the number of complaints filed to heads of penal institutions, according to records of the COPSD, increased from 378 to 577 compared to the previous year, the prisoners’ trust in this legal remedy is still insufficient. Almost 80% of the complaints were filed in only three penal institutions: Lepoglava and Glina State Prisons and Zagreb County Prison, and there are also penal institutions where no complaints were filed in the previous year, for example Rijeka, Pula and Dubrovnik County Prisons. The trust of prisoners on remand in the efficiency of complaints is reflected in the fact that there were only 23 cases when they exercised this legal remedy in 2015.

Prisoners do not exercise legal remedies because they do not wish to make the officials angry and because they fear negative consequences, for example being given lower prisoner performance evaluation, not being granted any benefits or losing work engagement.

Although most of the complaints filed due to inefficiency of legal remedies pertained to failure to act on complaints within the legally prescribed time limit, the prisoners’ claims that legal remedies are not used because they do not wish to make the officials angry and because they fear negative consequences, for example being given lower prisoner performance evaluation, not being granted any benefits or losing work engagement, are worrying.

Prisoners have also contacted us due to long duration of executing judges’ procedures, and there was even one investigative procedure where we found that the prisoner filed a complaint against the decision on pronounced disciplinary measure and the judge issued the decision after four months, instead of issuing it within the legal deadline of 48 hours. Actions in this case were not only contrary to the provisions of the Execution of Prison Sentence Act (hereinafter: EPSA), but it is also contrary to Art. 18 of the Constitution of the Republic of Croatia, which



implies achievement of efficient judicial protection via an appeal. Consequently, this issue needs to be specifically addressed at the annual meeting of executing judges.

Treatment by judicial police

We still continue to receive complaints in which prisoners claim that judicial police officers offend and belittle them and call them by derogatory names, and that they even slap them on the face, which is indicative of possible degrading treatment. As a rule, these are complaints that are very hard to confirm as well-founded, because such actions occur at places without video surveillance or witnesses, but it is precisely the officers' actions that are the most common reason for complaints to heads of penal institutions and to the COPSD, according to data available to us.

Correspondence

During the previous year, prisoners have contacted us claiming that their complaints filed to the Ombudswoman and letters addressed to state bodies and institutions had not been sent from the penal institutions. Due to the method of recording submittal of letters we were unable to confirm or disconfirm their allegations. Given that the sending of petitions and complaints to government bodies and other public bodies and the subsequent obtaining of a response is a constitutional right, penal institutions need to set up and keep records that allow for clear determination of the time when and the person to whom the letter was handed over.

Should it be adopted, the proposed amendment to the Criminal Procedure Act (hereinafter: CPA), pursuant to which prisoners on remand would be able to file a complaint to the Ombudswoman and receive her response without any limitation or supervision, would speed up the process of filing complaints and contribute to strengthening of the protection of their rights.

4.1.2. Complaints filed by citizens with regard to work of the police during the act of deprivation of one's liberty

Complaints filed by citizens with regard to actions of police officers during deprivation of one's liberty mostly pertained to unprofessional and unethical conduct, overstepping one's authority and biased and selective treatment. In any treatment that involves the use of physical strength and that results in deprivation of one's liberty, police officers are obligated to invest the maximum level of due care to preserve the dignity of the person at whom such treatment is aimed, keeping in mind that, in the event of error, such treatment represents a violation of the citizens' constitutional rights.

For example, when persons are made to lie with their face down on the ground, in front of a group of observing citizens or journalists, and when video recordings of such treatment are posted on the website of the Ministry of the Interior without protecting the identity of



the person in the video, this can certainly represent degrading treatment. In the case of *Bouyid vs. Belgium* (2015), the European Court of Human Rights (ECtHR) found that for something to be considered as degrading treatment it is sufficient for the victim to feel humiliated and that any unjustified use of force represents degrading treatment, regardless whether the physical force was of lesser intensity than the force that would have left permanent consequences.

Following a visit to the Republic of Croatia in 2007, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) recommended that the police officers use force strictly to the extent necessary for persons acting violently or agitatedly to be brought under control. However, the conducted investigative procedures indicate that this recommendation is sometimes not respected.

When persons are made to lie with their face down on the ground, in front of a group of observing citizens or journalists, and when video recordings of such treatment are posted on the website of the Ministry of the Interior without protecting the identity of the person in the video, this can certainly represent degrading treatment.

4.1.3. Complaints filed by persons with mental disorders

In 2015, persons with mental disorders or members of their families mostly complained about involuntary hospitalization, conducting of certain medical procedures without prior freely given consent and violation of certain rights of persons with mental disorders under the Act on Protection of Persons with Mental Disorders (hereinafter: APPMD). In recent years there has been a noticeable increase in the complaints filed by persons with mental disorders and members of their families, due to their being better informed about our competence and due to our more frequent visits to psychiatric institutions.

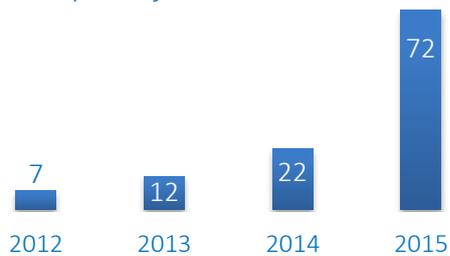
Considering that the Ombudswoman is not competent for diagnosing a mental disorder or for evaluation whether it was medically justified to involuntarily detain and place somebody in a psychiatric institution (and the complainants very often have precisely such expectations), we have provided them with information about who to appeal to. In a small number of cases it was found that the complainant's constitutional and legal rights had been violated. One such example is a complaint about a hospital's failure to grant a patient access to medical records in 2014, where the hospital explained that access could only be granted upon request of the court. However, pursuant to Art. 23 of the Act on Protection of Patients' Rights and Art. 23 of the Act on Medical Practice, the hospital was obligated to show the patient her medical records and to have them copied at her expense, considering the fact that the APPMD that was in effect at the time neither prescribed the patient's right to access medical documents nor did it prohibit or limit that right.



4.2. NATIONAL PREVENTIVE MECHANISM

In the fourth year of operation of the NPM, we had 72 visits, which was 227% more when compared to the previous year. The visits included the prison system, the police system, locations affected by the refugee crisis and homes for the elderly and the disabled.

Number of visits by NPM in the period from 2012 to 2015



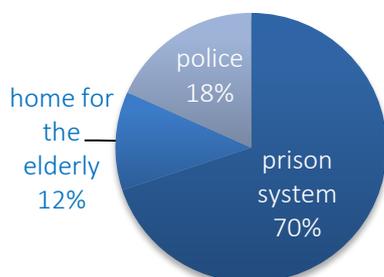
Twelve visits to penal institutions were aimed at checking the accommodation conditions, implementation of coercion measures and method of organizing healthcare. We also dealt with the issue of hunger strike. Apart from that, we intensely monitored the refugee crisis, through 26 visits among other ways. This is reported in more detail in the special chapter on refugee crisis.

In 2015, we also visited five homes for the elderly and the disabled. Our objective was to determine the level of respect for human rights of the elderly in institutional care. Apart from that, we also visited 27 police stations and detention units in four police administrations and performed an inspection visit of a psychiatric institution.

Apart from NPM visits, we educated police officers and employees of the prison system about the authorities of the NPM and the prohibition of torture, inhuman and degrading treatment. Seven workshops for approximately 100 police officers of Police Administration of Split-Dalmatia County were held and we took part in two training sessions for approximately 30 employees of the prison system. This way we tried to provide preventive action in human rights education.

After the visits of the NPM, we gave 279 written recommendations and warnings, which was

Share of written recommendations and warnings by relevant areas in 2015



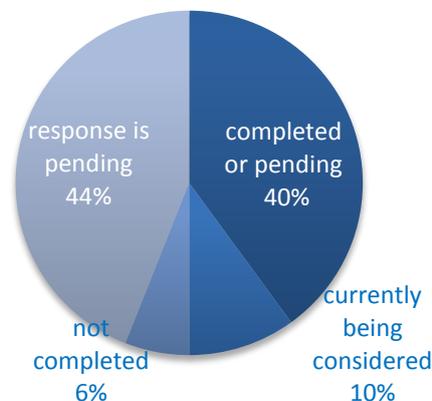
41 more than in the previous year, as well as a series of verbal recommendations during the visits to locations affected by the refugee crisis. The biggest number of recommendations and warnings were given following the visits to the prison system (195). According to received responses, 40% of written recommendations and warnings have been implemented or are pending implementation.

Reports on some visits were sent at the end of 2015, so no responses of competent bodies and institutions had been received by the time this Report was written, while additional explanations were requested about the implementation of certain recommendations and warnings.



Most of the non-implemented recommendations and warnings require significant financial investments, for example renovation or partitioning of rooms, or the implementation requires agreement to be reached between two separate departments, for example, for solving the issue of supplementary health insurance for all prisoners, or the implementation requires change of regulations. Despite that, a high percentage of implemented and completed recommendations will surely have a positive impact on treatment of persons deprived of their liberty.

Actions of competent bodies and institutions according to written recommendations and warnings in 2015



4.2.1. Visits to the prison system

In order to get a better insight into the respect for the rights of persons deprived of their liberty in the field of healthcare, accommodation, special measures for maintenance of order and security, disciplinary measures, implementation of means of coercion and hunger strike, in 2015 we visited county prisons in Zagreb, Osijek, Gospić, Split, Bjelovar, Varaždin, Rijeka, Dubrovnik and Sisak, as well as Šibenik State and County Prison and Lepoglava and Glina State Prisons.

Prisoners' healthcare

In all penal institutions we visited, a shortage of employees in prisoners' healthcare wards was found, in comparison to the number of systematized job positions. For example, in Osijek County Prison, only two out of five systematized job positions are filled, those of two nurses, while a head of the ward, a physician and another nurse still need to be employed. One nurse is employed under a service contract, and the general practitioner and the psychiatrist have concluded business cooperation agreements with the prison. In Lepoglava State Prison, out of 16 systematized job positions only 11 are filled, and in Split County Prison, out of six systematized job positions only four are filled. A similar situation is present in other penal institutions as well. Physicians are reluctant to come to work there and they sometimes stay for only a few days, so there is great fluctuation. In Zagreb County Prison, the prison physicians perform about fifty examinations a day, and the psychiatrist performs about thirty examinations. Although the total number of prisoners has reduced, the number of physician's examinations has increased, and in general the number of instances when prisoners are taken out of the prison to external medical institutions has also increased.



An additional problem is the fact that prison physicians cannot write referral slips or prescriptions for medications that would be accepted by external medical institutions. They are written by elected physicians that all persons deprived of liberty should have. Because of that, nurses and physicians spend a lot of their working hours contacting elected physicians and collecting referral slips and prescriptions, and sometimes even visiting those physicians in person, which significantly reduces their ability to perform actual healthcare tasks. According to the COPSD instruction of 2014, penal institutions have to independently contact regional CHIF offices and arrange the implementation of prisoners' healthcare with physicians, according to the area where the penal institution is located.

Prison physicians cannot write referral slips or prescriptions that would be accepted by external medical institutions, but rather these have to be written by elected physicians that all persons deprived of their liberty should have.

However, the instruction is really vague in the part pertaining to selection and cooperation with elected physicians, so much of the burden is shifted to those who work in healthcare in each individual penal institution. Specifically, in some areas it is easier to find an elected physician, whereas in others, such as Zagreb for example, it is extremely difficult because the physicians generally have a sufficient number of patients and cannot accept new ones. Furthermore, some may be prepared to come to the penal institution, but most require that the prisoner be brought to them for examination, which represents an additional burden for the judicial police, and also makes provision of healthcare to prisoners more complicated, especially in emergency situations.

Healthcare providers schedule prisoners for specialist examinations via the central referral system, the same way all other patients are scheduled. Taking into consideration the waiting lists for individual specialist examinations and the inability (for security reasons) to reveal the scheduled examination date to the prisoners, it is no surprise that sometimes they are revolted by how long they have to wait to have certain examinations done. Sometimes the penal institutions cannot take the prisoners to the already scheduled specialist examinations to external hospitals because judicial police officers are engaged for court hearings. So, for example, in Zagreb County Prison, in one day but at different times of day, there were 48 instances where prisoners were taken out of the prison to 21 different places, and on another day there were 79 of such instances. For that reason, between 1 and 20 March 2015, six prisoners were not taken to their scheduled specialist examinations. An additional problem is the fact that, based on the number of inmates, Zagreb County Prison lacks about thirty judicial officers, and a similar situation is also present in Lepoglava State Prison. Consequently, the vacant job positions need to be filled so that such organizational problems that result in violation of the prisoners' rights could be reduced to a minimum.

Nurses in most penal institutions work in two shifts, which ensures that medications are dispensed by healthcare providers, for example, in Lepoglava State Prison and in Zagreb County Prison. In some penal institutions, for example in Šibenik County Prison, healthcare providers



work in two shifts only on work days, so on weekends and on holidays, the judicial police officers dispense the medications.

In most penal institutions that we visited in 2015 the judicial police officer is as a rule present at the infirmary during the physical examination (except in Glina State Prison) but during psychiatric examinations this occurs in a small number of cases. The presence of a person other than a healthcare provider during medical examinations, except for security reasons, is a violation of the prisoner's right to privacy, which is something we have already written about in previous reports. Deprivation of liberty does not represent an automatic deprivation of the patient's right to privacy. There is much resistance from judicial police officers to changes of such practice, as well from the physicians who report that they were introduced to such practice upon their arrival and accepted it by inertia. In situations where they insist on the presence of judicial police officers, certain technical adjustments need to be implemented, for example, the arrangement of furniture in the room or installing a Plexiglas opening on the front door. That way the judicial police officer would be allowed visual supervision of the room, while at the same time privacy of the patient would be preserved.

The presence of a person other than a healthcare provider during medical examinations, except for security reasons, is a violation of the prisoner's right to privacy, and deprivation of liberty does not represent an automatic deprivation of the patient's right to privacy.

There are different ways of submitting requests for medical examinations, and the need for urgent examination is directly notified to judicial police officers who are on duty. In some penal institutions there are special boxes installed, the keys to which are only in possession of healthcare providers, for example in county prisons in Split, Rijeka, Gospić and Osijek and in Šibenik State and County Prison, while in other penal institutions the requests are directly handed over to nurses during the dispensing of medications, for example in Lepoglava and Glina State Prisons. In Zagreb County Prison the requests for medical examinations are still handed over to judicial police officers, but they no longer indicate the reasons for requesting the examination.

Penal institutions generally do not keep records that would show when the prisoner submitted the request for medical examination or when he/she underwent the examination. Lepoglava State Prison has organized such a system, but the records are not kept regularly and it was not possible to verify when the requested examinations were carried out without looking at the prisoners' medical records. A prisoner was selected at random, and with his consent, his medical records were examined and it was found that he requested an examination on 14 occasions between mid-February to mid-June 2015, but that he never underwent an examination. Although healthcare providers report that his condition is under control, it is not acceptable for a prisoner to unsuccessfully apply for a medical examination for so long. All prisoners who apply for medical examination have to undergo such examination within a reasonable time, with taking due consideration of their conditions, and with regular keeping of records on performed examinations.



Prisoners are often dissatisfied with the obligation to pay participation in the costs of specialist examinations and medications. If they are without regular income, for example pension, and if they are unable to earn any income during their imprisonment, they generally have no money at their disposal. Based on the officials' estimate, about 40% of prisoners in Lepoglava State Prison have no money to pay for participation, while in Glina State Prison a dozen of them refuse to take the medications for which they have to pay participation. Consequently, payment of participation should be adequately regulated for all prisoners during the time they are in prison.

Premises in which dentists work in Zagreb County Prison and in Lepoglava State Prison are in poor condition, and the premises foreseen for a dental clinic in Glina State Prison need to be furnished and equipped. In 2015, in Zagreb County Prison and in Glina State Prison new dental chairs were procured, whereas in Lepoglava State prison no new equipment has been procured and they still work with old machines which are in very poor condition. In order for dental care to continue to be provided in Lepoglava State Prison, which is certainly the best solution taking into consideration the organizational and security reasons, it is necessary to urgently modernize the equipment and medical instruments. Furthermore, the procurement of the dental chair alone in Glina State Prison does not enable the provision of dental care so it is necessary to urgently provide all other required equipment.

In penal institutions the security measure of compulsory treatment of drug addiction is generally carried out in accordance with the Guidelines for Psychosocial Treatment of Drug Addiction in the Healthcare, Social Welfare and Prison System, although the Guidelines do not indicate that they also pertain to implementation of security measures of compulsory treatment. That way, as a rule, these measures are implemented by persons other than healthcare providers and the physicians know very little or nothing about that, which is wrong. The security measure of compulsory treatment for alcohol addiction in certain penal institutions cannot be implemented in accordance with the professional standards, so such measures are not implemented, but rather the prisoners get included in special programs of the department responsible for treatment, which does not constitute actual treatment.

Accommodation conditions

Although the occupancy rate in county and state prisons has dropped compared to previous years and prisons invest significant efforts into improving accommodation conditions, the standards pertaining to space available to accommodate persons deprived of their liberty are not observed in Lepoglava State Prison and in County Prisons in Osijek, Varaždin and Zagreb. Despite numerous warnings, the decision of the Constitutional Court No. U-III-4182/2008 of 2009, instructing the Government to adjust the capacities of Zagreb County Prison to the accommodation requirements of detained persons within a period of maximum five years and stating that persons deprived of their liberty have had their constitutional right to humane treatment and respect of dignity violated, has not yet been implemented. The situation is made more difficult by the excess of beds in some rooms as well as the fact that there is an insufficient



number of chairs, which makes the persons deprived of liberty having to eat on their beds. Some of them do not have cabinets in which they could put their personal belongings. The

Although the occupancy rate in county and state prisons has dropped compared to previous years and prisons invest significant efforts into improving accommodation conditions, the standards pertaining to space available to accommodate persons deprived of their liberty are still not observed.

worst conditions are those of misdemeanour offenders and detained persons, so for example, in Osijek County Prison there were 15 persons in a room of 38m². Accommodation of a large number of persons into a shared dormitory is not recommended and combined with other circumstances pertaining to accommodation, such as only one sanitary facility without a door or the lack of chairs and cabinets, it can be considered as degrading treatment.

In county prisons in Zagreb, Dubrovnik and Split, sanitary facilities in dormitories are not fully separated from the rest of the rooms in which persons deprived of their liberty eat and spend up to 22 hours a day, which is something that

certainly has to be changed as soon as possible.

With the aim of introducing a more humane method of execution of prison sentence, the COPSD issued orders to most penal institutions in July and October 2015 to provide complete sets of cutlery to persons deprived of their liberty. For security reasons, their implementation was postponed in Lepoglava and Glina State Prisons and in Zagreb County Prison, as well as in the Prison hospital. As examples of good practice there are Dubrovnik and Gospić County Prisons, which provide complete sets of cutlery, which are collected and counted after the meals.

In order to introduce a more humane method of execution of prison sentence, the COPSD issued an order to most penal institutions to provide complete sets of cutlery to persons deprived of their liberty.

In Split and Varaždin County Prisons there is no special room for unsupervised conjugal visits. Considering the fact that this is a benefit prescribed by the EPSA, prisoners who are imprisoned in county or state prisons that do have such a room are in a better position than the others.

In Split and Osijek County Prisons and in Lepoglava State Prison the problem of high temperatures in dormitories during summer months has only been partially remedied by fans and occasional opening of doors. In most penal institutions, prisoners complained of not getting sufficient cleaning agents, of the fact that their blankets are washed extremely rarely and that their mattresses are deteriorated. In Gospić and Varaždin County Prisons there is no separation between smokers and non-smokers, and in Lepoglava State Prison and in Zagreb, Split and Varaždin County Prisons there is no overhang over the walking area and/or no drinking water available, which makes it hard to go for a walk on a rainy or very hot day.



Special measures for maintenance of order and security

According to records of the COPSD, in 2015 there were 1,387 special measures for maintenance of order and security implemented, which was 581 less than in 2014. Considering the fact that such measures are further limitations of prisoners' rights, this is certainly a positive thing, but nevertheless, the shortcomings and inconsistencies that have been found have to be remedied as soon as possible.

Most inconsistencies were found in the implementation of the measure of isolation from other inmates. While in some penal institutions this measure is implemented by putting inmates in a single room for a period of 30 days as a rule, in others it is implemented in a section of the corridor separated by bars, where the inmate gets a mattress brought in if the measure lasts overnight. This is the case, for example, in Osijek County Prison. Such treatment is contrary to international standards and it can be considered degrading treatment. There are further inconsistencies also in the giving of orders to implement this measure, so in some penal institutions there is no written decision on isolation, in some an order is issued for

There are great differences in the frequency of ordering the measure of isolation from other inmates, which indicates that there are inconsistent criteria for its implementation. For example, in Osijek County Prison, which has a capacity of 110 persons, in 2014 there were 44 orders for isolation, while in Zagreb County Prison, which has a capacity of 626 persons, this measure was not implemented at all.

implementation of the measure, while in others a written decision is made, although this is not prescribed by the EPSA. In addition to that, in Lepoglava State Prison and in Šibenik State and County Prison, the written decision also contains an instruction on legal remedy, which is certainly an example of good practice. There are great differences in the frequency of ordering this measure to be implemented, which indicates that there are inconsistent criteria for its implementation. For example, in Osijek County Prison, which has a capacity of 110 persons, in 2014 there were 44 orders for isolation, while in Zagreb

County Prison, which has a capacity of 626 persons, this measure was not implemented at all.

In several cases, prisoners were separated from the group method of execution of prison sentence for security reasons, although they were not formally the subjects of any particular or disciplinary measure. Such regimen of serving of prison sentence, which sometimes lasts for several months, is implemented by county and state prisons pursuant to the instruction of COPSD. It is undisputed that in some cases the prisoner has to be isolated from group execution of prison sentence, but this has to be decided upon in a legally regulated procedure.

Although the measure of accommodation in a specially secured room, free of dangerous objects is ordered very rarely (it was only ordered on 19 occasions in 2015 in the entire prison system), it requires special attention, both due to the empty, sponge-lined room without daylight in which it is implemented and due to the fact that it is often ordered as a result of the prisoner's pronounced mental disorders. The basic problem definitely comes from incomplete



and unclear regulations, which is something we have already written about in our previous reports. For example, it is regulated that this measure can last up to 48 hours on a single occasion, but it is not regulated how long the time interval should be between two instances of implementation of this measure, as is the case with execution of disciplinary measure of solitary confinement. In Split County Prison, a prisoner spent a total of 119 hours and 40 minutes in a specially secured room free of dangerous objects, with only one interruption of 20 minutes and one of 5 minutes, which is unacceptable. Furthermore, no later than six hours after the beginning of execution of this measure a physician's consent for its implementation is required. Given that the measures generally last less than six hours, the physician's consent is often not obtained, especially in penal institutions that do not have a physician among its permanent staff. There was even one case when the physician consented over the telephone, without any examination of or direct contact with the prisoner.

No standards have been prescribed for specially secured rooms free of dangerous objects, so the conditions in them vary. For example, in Lepoglava State Prison, the surface area of this room is 2.6 m², which is below any legal or international standards. Despite the recommendation of CPT to the Republic of Croatia given in its report in 2013 about providing daylight in such rooms, this has not been done in any of the penal institutions except in Sisak County Prison. This situation is usually explained by heads of the prisons by referring to security reasons, but in Sisak the window is placed on a high position so that it poses no security risk whatsoever. There are penal institutions that do not even have such a room, for example Bjelovar and Varaždin County Prisons, where in situations of incidents, the prisoner is brought to the emergency medical ward, and after that to the prison hospital, which is also an example of good practice.

The measure of restraining is not entered into the records regularly, especially after the use of means of coercion, which is something that COPSD pointed out to all penal institutions, based on our recommendation. In some cases, in addition to the measure of restraining being implemented, the prisoner is also isolated in a separate room, which *de facto* represents the implementation of the special measure of isolation, too, which is not entered into the records.

Solitary confinement, the only special measure for maintenance of order and security the implementation of which is decided by the executing judge at the proposal of the head of the prison, was implemented on only two occasions in 2015. Executing judges sometimes make decisions several months after receipt of the proposal, sometimes even a year later, despite the legal time limit of 15 days. Considering the fact that this measure is pronounced in cases of serious threats to security, the large delay between the proposal and the actual implementation of the measure undoubtedly makes the achievement of its original purpose questionable.



Means of coercion

The rights and integrity of the prisoners are most directly violated by use of means of coercion. According to records of the COPSD, in 2015 such means were used on 44 occasions, the mildest of them being the acts of bringing in and defence techniques, and use of mace spray that contains allowed harmless substances. Records are kept regularly and all prisoners subjected to the use of means of coercion were examined by a physician.

Although the prisons system found the use of means of coercion to be legal in the observed cases, the allegations of some prisoners indicating potentially illegal treatment and overstepping of authority are worrying. For example, a prisoner in Gospić County Prison was subjected to the act of bringing in – elbow lock, but he reported that judicial police officers had hit him with their hands and feet. He sustained a back injury that could have been caused by falling down onto a radiator, as the judicial police officer described the incident. But the prisoner also sustained an injury to his left ear, specifically an auricular hematoma and perforated eardrum with consequential diminishing of the sense of hearing, which is typically caused by a direct hit with a hard blunt object in the area of the ear, such as a hit with an open hand. Although the report on use of means of coercion was also submitted to the competent executing judge in this specific case, no additional statements were requested to verify the prisoner's allegations of potentially illegal and even inhuman or degrading treatment.

There was one prisoner who was brought to the Prison hospital from Lepoglava State Prison immediately after the use of means of coercion, for swallowing foreign objects. At the Prison hospital he complained that the judicial police officers had beaten him up. Although he was admitted with visible hematomas on his face, his allegations were not investigated and he was instructed to make a complaint when he returns to the penal institution in which he is kept.

In this context, the United Nations Committee Against Torture (hereinafter: CAT) gave a recommendation in its concluding observations in 2014 to the Republic of Croatia regarding the necessity of investigating all allegations of possible torture and inhuman or degrading treatment, including allegations of verbal abuse and use of excessive force. In that sense, the evaluation of legal justification of the use of means of coercion should not be based solely on statements given by judicial police officers, which is generally the case, but rather it is necessary to also objectively examine in detail the statements of prisoners, especially those who were injured in the process of use of such means of coercion.

Evaluation of legal justification of the use of means of coercion should not be based solely on statements given by judicial police officers, but rather it is necessary to also objectively examine in detail the statements of prisoners, especially those who were injured in the process of use of such means of coercion.



Disciplinary proceedings

During interviews with prisoners and officials of penal institutions and based on examination of records on disciplinary proceedings, certain shortcomings have been found that pertain to disciplinary proceedings. For example, in none of the observed cases did the executing judge make a decision on appeal against the decision on pronounced disciplinary measure within the time limit of 48 hours, which is why either the EPSA or the current practice have to be changed. Certain inconsistent treatment has also been found in implementation of disciplinary measures so for example in some penal institutions the measures are implemented even before they become final, while in other cases one waits until the relevant decision becomes final. Furthermore, contrary to the instruction of the COPSD, in some cases the prisoners were denied the right to use all the benefits they had previously enjoyed as a consequence of mere initiation of a disciplinary proceeding, even though they had not yet been found guilty by that time.

Certain shortcomings in the implementation of disciplinary proceedings, which are held in accordance with the CPA, were caused by the fact that in some penal institutions they are conducted by persons without legal education. The lack of education of persons who hold disciplinary proceedings is certainly a problem, and considering frequent amendments of the CPA and inconsistencies between the EPSA and the CPA, such education is necessary and it would certainly result in a higher level of respect for the rights of persons deprived of their liberty.

A special problem is failure of competent courts to act upon proposals made by heads of prisons with regard to pronouncing of a disciplinary measure. Specifically, out of 58 proposals submitted in 2015, in as many as 37 cases the competent court failed to issue any decision, which in some situations makes the maintenance of order and security difficult.

Hunger strike

Pursuant to the World Medical Association's Declaration of Malta on Hunger Strikers (hereinafter: Declaration of Malta), a hunger striker is a mentally healthy individual who has declared his/her decision to start a hunger strike and who refuses to take food and/or liquid for a significantly long time. In 2015, as many as 226 persons in the prison system went on a hunger strike, mostly for a period of several days.

Although this is a form of expressing one's dissatisfaction that can seriously harm one's health and that poses two basic, mutually contrary conflicts of values – the obligation to respect life and the duty to respect the patient's autonomy, there are no clearly written rules about how to treat hunger strikers in the prison system. The situation is made more difficult by the fact that prison physicians, unlike those who work in public service, are government employees employed with the Ministry of Justice, which can have a negative impact on trust, the basis of doctor-patient relationship.



The right to refuse examination is generally respected, but physicians regularly warn prisoners who are on hunger strike that their actions are a threat to their health and their life. However, medical records of hunger strikers are imprecise and incomplete, and in some cases their health condition is not monitored on daily basis. This is contributed to by an insufficiently precise normative framework and lack of knowledge of relevant international documents, primarily the Declaration of Malta. Namely, according to EPSA, hunger strikers are treated in accordance with general medical rules, i.e. in accordance with the Act on Medical Practice, the Health Care Act and the Patients' Rights Protection Act, all of which contain general provisions about the rights and obligations of patients, but fail to regulate the procedure in the event of a hunger strike. The Criminal Procedure Act and the Ordinance on House Rules in Remand Prisons do not contain any provisions about treatment of prisoners on remand who are on a hunger strike. In order to guarantee that their basic human rights are respected, it is necessary to provide a normative definition of how to act in these situations.

According to our recommendation, in June 2015 the Ministry of Justice drafted Guidelines for Treatment of Hunger Strikers in Accordance with the Declaration of Malta, which only remedied the shortcomings partially, because these Guidelines prescribe only the principles, but not actual methods of treatment. Hence, there is still the need for the Ministry of Justice, in cooperation with the Ministry of Health, to adopt a protocol in cases of hunger strikes. Although the Guidelines prohibit any form of coercion and specifically indicate that in cases where the prisoner refuses a medical examination the physician has to record the general impression of the patient's condition, there was one case where after the prisoner refused to be weighed after declaring that he was on a hunger strike, he was subjected to a disciplinary procedure for a serious disciplinary offence – refusal to obey a legitimate order by an authorized official, for which the prisoner was pronounced the disciplinary measure of solitary confinement for six days. We have pointed out to the head of the penal institution and to the COPSD that such treatment is unacceptable, and based on the response we have received, they will no longer subject prisoners who announce a hunger strike and refuse to be weighed to any disciplinary measures.

4.2.2. Visits to police stations and prison units

With the aim of strengthening the protection from torture and other cruel, inhuman or degrading treatment and in order to determine the method of treatment of persons deprived of their liberty and the conditions for their stay in premises where they are detained or placed, the NPM visited the premises of Police Administration of Požega-Slavonia County at three locations, Police Administration of Osijek-Baranja County at nine locations, Police Administration of Brod-Posavina County at six locations and Police Administration of Dubrovnik-Neretva County at nine locations. During the visits we found no persons deprived of their liberty but we did find that conditions of accommodation partly diverge from international standards, which could represent degrading treatment and are contrary to the Standards of Premises Where Persons Deprived of Their Freedom to Move Are Held (hereinafter: Standards).



Accommodation conditions

One's stay at police stations is generally brief, but despite that the accommodation conditions at those premises have to be compliant with prescribed standards. The detention facilities have to have enough daylight and fresh air and the temperature has to be adjusted to climate conditions. According to CPT standards, the premises have to be adequately sized and equipped with necessary furniture, specifically a chair or a bench, and for night-time detention, there has to be a bed with a clean mattress and bedding. Police stations generally have beds, mattresses and bedding. For example, in the Traffic Police Station Slavonski Brod and in the 2nd Police Station Osijek the rooms are adequately sized and in good order, in accordance with international standards, while the detention rooms of Police Administration of Brod-Posavina County do not comply with the standards, which is something we have pointed out back in 2012.

The walls and floors are usually lined with ceramic tiles, which is contrary to the standards, considering that it is a material that can be broken. In the rooms there is a general lack of tables and chairs, but a positive example is Police Administration of Požega-Slavonia County, where there is a seat, a table and a wall shelf.

Detention facilities in which persons are held have to be clean and in good order. A positive example is the Detention Unit of Police Administration of Dubrovnik-Neretva County. On the other hand, at the time of the visit to the Detention Unit of Brod-Posavina County the rooms were extremely disorderly and hygienically unacceptable. Conditions in the rooms of police stations in Korčula and Beli Manastir are mostly unsatisfactory due to their deteriorated condition, but given that Police Station Beli Manastir is currently undergoing renovations, it is safe to assume that this problem will be resolved to a satisfactory degree.

In some police stations there is no direct access to drinking water or sanitary facilities in the rooms.

The rooms in Police Station Našice are without windows so there is no daylight and the inflow of fresh air is attempted via a metal bar door in the corridor, which is contrary to the Standards.

In some police stations, there is no direct access to drinking water or sanitary facilities in the rooms. So, for example in the 1st Police Station Osijek drinking water is handed out in plastic bottles, which makes the persons deprived of their liberty dependent on police officers, which is contrary to the Standards of the CPT, which require direct and undisturbed access to drinking water.

In police stations in Nova Gradiška, Dubrovnik and Gruda, video surveillance also covers sanitary facilities, which is a direct violation of privacy and disrespect of dignity of persons deprived of their liberty, while in the holding rooms of Police Administration of Požega-Slavonia County the metal washbasin and toilet bowl are not separated by a partition, so privacy and intimacy is violated when there are several people in the room.



In detention units it is required to enable direct communication between detained persons and the detention supervisor, for example via a call bell, which would reduce the risk of incidents, especially when there are several persons in the rooms. Also, in accordance with the Standards, all rooms where persons deprived of their liberty stay or move about have to be covered by a video and audio system to enable the police officer to have continuous supervisions, and to enable them to call the police officer. Standards also prescribe a room for searching of arrested and detained persons, a room for visits and consultancy with one's attorney and for a medical examination. In the rooms for consultancy with attorney and in those for medical examinations there may not be any audio or video surveillance. Most police stations do not have a special room for communication with attorneys, but a positive example is the Detention Unit of Police Administration of Požega-Slavonia County, which has this kind of room, as well as an interrogation room.

According to CPT standards, persons held at police stations for more than 24 hours have to have the possibility to spend time outdoors, in fresh air, which is not the practice in all police administrations. A positive example is Police Administration of Dubrovnik-Neretva County. Furthermore, in most police stations meals are provided to persons deprived of their liberty, but in some this is not the case, so even police officers sometimes buy them at their own expense. A positive example is the Detention Unit of Police Administration of Požega-Slavonia County, which has a contract on food delivery concluded with two catering facilities.

Records of persons deprived of their liberty

In all detention units, detention supervisors simultaneously perform tasks in the operations and communications centre, which is not good, because the performance of two tasks can result in their becoming overburdened. Consequently, the tasks need to be organized so that detention supervisors perform only their primary duty.

A part of the police stations do not keep written records on total number of detained, brought in and arrested persons and persons placed in the room for persons deprived of their liberty. They keep these records only in electronic form, but such electronic records do not show when or even whether the person was explained the reason for their deprivation of liberty. This information is provided in the case file, but this file can be viewed only during regular working hours of the station, which makes supervision during unannounced visits outside working hours impossible, so this indirectly disables the performance of the tasks of the NPM. Uniform records, made in writing and containing copies of appropriate forms, e.g. arrest reports and certificates confirming that the persons were explained the reason of their arrest and that they have been informed of their rights, would enable fast and efficient verification of this information. A positive example is Police Administration of Požega-Slavonia County, which uses an official records form with extremely detailed information provided.

Finally, it has been found that in some Police Administrations police officers are not familiar with the authorities of the NPM, so they need to be informed and educated in that respect.



4.2.3. Visits to psychiatric institutions

After we visited five psychiatric institutions in 2014, individual reports with recommendations and warnings were drafted. Following the responses about implementation of those recommendations, in 2015 we performed a follow up visit to Ugljan Psychiatric Hospital and found that it has acted in accordance with all the warnings of the Ombudswoman issued in 2014, except the one pertaining to the beneficiaries of the permanent accommodation service under The Social Welfare Act who are *de facto* permanent residents of certain medical wards. Likewise, all recommendations other than those that require more substantial financial resources have been implemented, but even those have been accepted by the hospital, which is now looking for sources of funding. Recommendations sent to ministries in terms of seeking systematic solutions have been partly implemented. The Ministry of Social Policy and Youth warned back in 2014 all the social welfare centres about the need for a more engaged approach to finding accommodation for persons with mental disorders who no longer require hospital treatment, but due to their psychophysical condition and their living conditions outside the institution are unable to provide for themselves and have nobody who is obligated and capable of providing for them. However, in some cases there are still problems with finding adequate accommodation outside the hospital.

4.2.4. Visits to homes for the elderly

Trying to get a better insight into the system of institutional care for the elderly and the disabled, in 2015 we visited five social care homes: Home for the Elderly “Sveti Josip” in Zagreb, Home for the Elderly “Kantrida” in Rijeka, Home for the Elderly and Disabled “Sveti Polikarp” in Pula, Home for the Elderly and Disabled in Slavonski Brod and Home for the Elderly and Disabled “Vita Nova” in Bjelovar. These homes are all registered for the providing of social welfare service of permanent accommodation for the elderly and the disabled users. The homes in Pula and Bjelovar are privately owned, while the others are owned by the respective counties.

The purpose of the visits, within the scope of authority of the NPM, was to determine the conditions in which persons who are in permanent care live, as well as the method of their placement into the relevant institution and the method of their treatment. It was also important to determine whether their specific needs are met, i.e. whether their fundamental rights and liberties are respected, for example the right to information, to respect of one’s private and personal life, protection of dignity, confidentiality of personal information, freedom of religion, prohibition of torture, inhuman or degrading treatment, ensuring adequate professional treatment, filing of complaints and the right to ownership. Special attention was paid to all situations that might represent limitation of the freedom of movement. Following each visit, individual reports with warnings and recommendations were given to the relevant home, its founder and the Ministry of Social Policy and Youth as the competent supervisory body.



During the course of our visits, we found no treatment that could constitute torture or inhuman treatment, but we did find certain treatment that might constitute degrading treatment and violation of certain legal rights. The reasons behind this generally lie in insufficient knowledge of international standards and national regulations that regulate the rights of persons in institutional care, a paternalistic attitude that employees know best what users of their institutions need and consequently treat them as if they were children, or the lack of staff. In order to prevent the violation of rights of users, it is necessary to organize education sessions for all employees of homes for the elderly with regard to the issues of human rights of the elderly.

All homes that we have visited are extremely clean and in good order, and the persons who are accommodated in them generally have positive comments about how the professional staff treats them.

Open doors, failure to use screens in rooms with several beds and similar treatment during the implementation of care for the users in the rooms and bathrooms violate their privacy and can be degrading, which is something that the employees of the homes need to pay special attention to.

Users of homes are often not sufficiently informed about their rights or the decisions made by the homes that pertain to them. An example of good practice is the Home for the Elderly and Disabled “Vita Nova”, which lists in detail all the rights of the users in the contract that the home concludes with them.

Open doors, failure to use screens in rooms with several beds and similar treatment during the implementation of care for the users in the rooms and bathrooms violate their privacy and can be degrading, which is something that the employees of the homes need to pay special attention to.

In all five homes, psychotropic medications are prescribed by psychiatrists and we have not had the impression that the users were over-sedated. There have been no complaints of coercion to take medication nor have we found any situations where users were given sedatives by employees who are not healthcare professionals in order to prevent them from being agitated. There is no use of means for physical restraint of persons; one uses only the means for fixation of one arm during administering of intravenous therapy, which is done with increased supervision by healthcare professionals (for example in the Home for the Elderly and Disabled “Kantrida”) and the means that serve to prevent the person falling out of a wheelchair if he/she is unable to sit in the wheelchair unassisted. In agitated persons, the staff usually lifts the sides of the bed at night to prevent them from falling out.

As a rule, all persons are encouraged to spend as little time as possible in bed during the day and they are placed in the wheelchair and taken to the common rooms so that they can participate in organized free-time activities. It is only in the Home in Pula and at one ward of the Home in Rijeka that the users who have difficulty moving or are unable to move independently are not encouraged to get out of bed. In order to ensure the quality of living, it is extremely important for a person not to spend the entire time in bed during the day, but



rather to become involved in various activities or social interaction, in accordance with their own interests.

4.3. ASSESSMENT OF THE STATUS OF RESPECT OF RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY

4.3.1. Persons deprived of their liberty who are in the prison system

Healthcare

Prisoners who fall ill are usually treated at the Prison Hospital, where the security measure of compulsory psychiatric treatment is implemented, if it is pronounced in addition to the prison sentence. The prison hospital is not a medical institution but rather has the status of a high-security correctional facility. Apart from that, there are wards for healthcare of prisoners within the state and county prisons, where civil servants with completed medical education and licence to practice their profession independently are employed, by the Prison System Directorate with the Ministry of Justice. If there are no prison physicians employed or if there is not enough of them, heads of the prisons conclude service contracts with external healthcare providers.

The Prison Hospital and the so-called “infirmaries”, i.e. prisoners’ healthcare wards, which are established in each penal institution, are not medical institutions and they are not organized in accordance with the Healthcare Act. The Healthcare Act does prescribe the possibility for the Republic of Croatia to establish a medical institution for providing of healthcare to persons deprived of their liberty, but this has not been done yet, although the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare to Persons Deprived of Their Liberty was adopted in 2014. Existing wards within penal institutions do not comply with prescribed requirements. Supervision of the providing of healthcare to prisoners is carried out by the Ministry of Health, but this is extremely rare. In this context, despite the Decision of the Constitutional Court U-III/64744/2009 of 2010, efficient supervision over the quality of healthcare in the entire prison system has not yet been established.

The Prison hospital and the prisoners’ healthcare wards, which are present in each penal institution, are not medical institutions and they are not organized in accordance with the Healthcare Act.

When the state deprives the citizens of their liberty, it accepts the responsibility for their healthcare, which should be the same as the healthcare provided to any person insured under the compulsory health insurance. This is evident from the case law of the ECtHR. Taking into consideration the status of the ward where healthcare is provided to prisoners, as well as the current number of healthcare providers and medical equipment available in those wards, it is evident that systematic changes in prisoners’ healthcare are required.



A major problem is the fact that prison physicians, who are civil servants and employees of penal institutions, cannot issue prescriptions for medications or referral slips that would be accepted by external medical institutions due to not having a contract concluded with CHIF, which results in the obligation of all prisoners to have their own elected physicians. This is a source of constant dissatisfaction because those physicians generally never get to even see the prisoners. In situations where penal institutions do not have their own “in-house” physician, but rather have service contracts concluded with family practitioners, such difficulties are avoided because prisoners can schedule examinations directly with them, and those practitioners can issue prescriptions and referral slips. All this being considered, it is necessary for the Ministry of Justice and CHIF to conclude a contract that would also enable prison physicians to issue referral slips and prescriptions, and for this to be done as soon as possible.

As of 2014, all prisoners with permanent residence and foreign prisoners with approved permanent address have the status of an insured person covered by health insurance, while the costs of healthcare for other prisoners are borne by the penal institutions.

Prisoners who do not have supplementary health insurance have to pay a participation fee when visiting a physician or dentist who is not employed by the penal institution, when receiving hospital treatment (in a hospital other than the Prison Hospital) and also when receiving certain prescription medications. Given that their ability to work is limited during their serving of the prison sentence, most of them do not have enough money for that. On the other hand, CHIF does not grant supplementary insurance at the expense of the state budget for prisoners whose families do not fulfil the required conditions, because it requires that despite

Despite the Decision of the Constitutional Court U-III/64744/2009 of 2010, efficient supervision over the quality of healthcare in the entire prison system has not yet been established.

having their temporary or permanent residence registered at the address of the penal institution, the prisoners also have to enclose with their applications other documents proving their marital status or family relationships, as well as the income earned by members of their households. Where all this is not submitted, CHIF does not accept the application as legally valid, despite the fact that the Ordinance on Procedure, Conditions and Method of Determining the Right to Payment of Supplementary Health Insurance Premium from the State Budget prescribes that income of all persons living in the shared household is taken into

consideration for that purpose. However, if a person is serving a prison sentence and has a registered temporary or permanent address at the address of the penal institution, it is clear that he or she does not reside in the shared household with members of their family. Considering the fact that an average of 87% prisoners serve prison sentences longer than one year, these changes in their status are certainly not temporary. If a prisoner lacks enough income, which can be proven by providing a statement of the account kept by the penal institution, and if he/she has nobody to provide for him/her, the prisoner should be deemed to fulfil the requirements for being granted the right to payment of supplementary health insurance policy at the expense of the state budget. Taking into consideration the financial



situation of most of the prisoners and the specificities of this population and given that the issue of healthcare in penal institutions also constitutes a public health issue, it is necessary to provide a systematic solution for the problem of supplementary health insurance for all prisoners so that during their serving of the prison sentence they have both the compulsory and supplementary health insurance provided at the expense of the state budget.

The responsibility for providing adequate healthcare for prisoners should be taken over by the Ministry of Health, just as it is responsible for the general population outside the prison system. This would be the most efficient method of ensuring implementation of Article 40 of the Recommendation on European Prison Rules (2006) of the Committee of Ministers of the Council of Europe, i.e. it would be an optimal way of ensuring treatment, measures and activities of healthcare in the same quality and scope as is prescribed in public health under the compulsory health insurance, which is something we also pointed out in last year's report. This type of solution exists in some European countries for years, and experience from Slovenia shows that the transfer of prisoners' healthcare to the public healthcare system resulted in quality improvement, which is evident from a significant reduction in the number of prisoners' complaints to the Slovenian ombudsman. In Slovenia, all prisoners are entitled to both the compulsory and the supplementary health insurance and their healthcare is provided within the framework of the public healthcare system.

The responsibility for providing adequate healthcare for prisoners should be taken over by the Ministry of Health, just as it is responsible for the general population outside the prison system.

Accommodation conditions

Accommodation conditions in which persons deprived of their liberty serve their sentences are not the same in all penal institutions as some of them do not comply with the legal standard of 4m² and 10m³. So, for example, the occupancy rate in Rijeka County Prison on 31 December 2015 was 125.86%, while in Pula County Prison it was 89.76%. The situation where the minimum legal standards are not respected is unacceptable, especially when taking into consideration the decisions of the ECtHR due to frequent violation of Art. 3 of the European Convention on Human Rights. Apart from that, the Council of Europe's Council for Penological Cooperation and the CPT suggested the implementation of an even better standard of four persons per dormitory, where one person would be entitled to 6m², and any subsequent person to an additional 4m². The UN Committee Against Torture expressed its concern in 2014 about the conditions in Zagreb County Prison and recommended that the Republic of Croatia reduce the occupancy rate in all penal institutions, especially in high security ones.

The standards pertaining to serving of meals are still inconsistent, so in some penal institutions the prisoners are only given a spoon, while in others they also get a fork and a knife. Given that there have been no security-related problems in the institutions that gave prisoners a full set of cutlery, this practice should be implemented in all penal institutions.



Special measures for maintenance of order and security

Inconsistency in implementing special measures for maintenance of order and security places prisoners who serve sentences in different penal institutions in an unequal position. For certain behaviour, a prisoner would be isolated from other inmates in one penal institution, but if moved to a different penal institution, for the same behaviour he or she would be sent to the specially secured room, free of dangerous objects. This situation leaves an impression of arbitrariness and subjectivity, which is not acceptable as it is in fact a limitation of rights. Absence of clearly defined, uniform rules and treatment criteria can cause mistakes with tragic consequences, as was the case of the prisoner who set himself on fire in the specially secured room free of dangerous objects in Pula County Prison, at which occasion the judicial police officers committed several mistakes prior to and during the enforcement of the measure.

This inconsistency primarily results from faulty provisions of the EPSA, which are full of ambiguousness and illogicality, as we have already pointed out in previous reports. For example, the EPSA prescribes four types of separation of prisoners from joint serving of prison sentence, of which isolation from other inmates, solitary confinement as a special measure and solitary confinement as a disciplinary measure are generally performed in the same rooms and in the same way. In that context, the EPSA explicitly regulates that in cases where several disciplinary measures of solitary confinement are pronounced for the same prisoners, for which the longest duration is 21 days, the interval between enforcement of those measures cannot be shorter than eight days. This limitation is not prescribed for the measure of isolation from other inmates, which can last up to 30 days. Similarly, during implementation of disciplinary measure of solitary confinement, medical supervision is obligatory once every 24 hours, while in the case of solitary confinement as a special measure, which can last for up to three months, medical supervision is obligatory twice a week. It is prescribed that the measure of isolation is to be enforced under medical supervision too, but the frequency of such supervision is not prescribed.

The ECtHR has not taken the position in its case law with regard to the time after which isolation from joint serving of prison sentence represents a violation of Art. 3 of the European Convention on Human Rights. Contrary to that, the UN Special Rapporteur on Torture suggests that all forms of isolation lasting longer than 15 days be abolished, seeing that numerous studies indicate that it can cause irreversible harmful consequences for one's health. This is further confirmed by The Istanbul Statement on the Use and Effects of Solitary Confinement of 2007. It is without a doubt that in the drafting of the new EPSA, it will be necessary to take into account the international standards in this field.

Treatment by judicial police officers and investigation of allegations of mistreatment

Most judicial police officers perform their jobs very professionally, which has been confirmed by many prisoners who said that it was precisely the judicial police officers who they would turn to in case of any problem. In that context, it is necessary to keep in mind that they work in very



difficult conditions, and due to budget limitations, they have not been sent to their prescribed medical examinations since 2010, although they are obligated to have such examinations done every two years.

Failure to perform these examinations, which include among other things a psychiatric examination aimed at determining the psychological status (impulsiveness, aggressiveness, resourcefulness in unexpected and frustrating situations, with special attention paid to anti-social and latent sadistic characteristics) and general psychological examination (determining general and special cognitive skills, assessment of personality traits with special emphasis on emotional stability), cannot only create difficulties for persons who work in security-related jobs, but can have a negative impact on their treatment of persons deprived of liberty.

Most judicial police officers perform their jobs very professionally, which has been confirmed by many prisoners who said that it was precisely the judicial police officers who they would turn to in case of any problem.

Extremely worrying are prisoners' allegations of having been hit by judicial police officers, all the more so because such allegations often go uninvestigated, and the assessment of legality of treatment is generally based on statements given by judicial police officers themselves. Attention was drawn to such treatment by the ECtHR in its decision on *Dolenec vs. Croatia* (2009), in which it found that the procedural aspect of Article 3 of the European Convention on Human Rights was violated. Although all reports on use of means of coercion, including those containing statements of prisoners claiming that judicial police officers had hit them, are delivered also to the competent judge of execution, according to information obtained during the visits there were no cases where the judge requested additional clarifications or sought to investigate the prisoners' allegations of possible inhuman or degrading treatment. The fact that a proactive approach on the part of judges is required has also been pointed out by CPT in its standards, indicating that even without explicit complaints, in cases where there is suspicion that a person has been victim of torture, inhuman or degrading treatment, it is necessary to order an investigation by a medical expert and to determine all the facts. This obligation pertains equally to physicians as well as to other staff members of the prison system. Without adoption of this type of proactive practice the danger will remain that potential violations of fundamental human rights will not be processed and sanctioned, which is unacceptable.

Prisoners' complaints

Prisoners' complaints are still not responded to in the legally prescribed time, and the responses are usually superficial and general. Furthermore, the decision on appeal against the decision on disciplinary measure is also not made in the legally prescribed time, and procedures initiated based on requests for court protection last too long in some cases. Records on filed complaints are not kept in all penal institutions, and according to statements of some prisoners, complaints are not filed for fear of negative consequences. Until this situation changes significantly, legal remedies available to persons deprived of their liberty who are in the prison



system will not be effective. Therefore, in order to strengthen the efficacy of legal remedies, it is necessary to introduce changes in the legal framework, educate officials and prisoners and publicly condemn any deterrent or prevention of filing complaints.

Elderly persons deprived of their liberty

In recent times, the number of elderly persons deprived of their liberty has been increasing, which is why methods of their serving of prison sentence, as well as the accommodation conditions, should be adapted to their specific needs in all penal institution.

No country that has ratified the European Convention on Human Rights has a prescribed maximum age limit for one to be deprived of his/her liberty. However, the ECtHR finds that when a country deprives a person in a serious health condition of his/her liberty, it has to pay special attention to providing the conditions in which he/she will be held or, in other words, those conditions have to suit this person's specific needs.

Number of persons deprived of their liberty (PDLs) who are older than 60 years of age, according to the conditions they are kept in and their status (information obtained from COPSD)

| Number of PDLs on 31 Dec 2015 | | TOTAL | Conditions | | | Status | | |
|-------------------------------|---------|-------|---------------|-----------------|------------------|-----------|---------------------|------------------------------------|
| | | | High security | Medium security | Minimum security | Prisoners | Prisoners on remand | Misdemeanour offenders / Detainees |
| Older than 60 years of age | | 238 | 164 | 51 | 23 | 197 | 38 | 3 |
| PDLs according to age groups | 60 - 70 | 198 | 141 | 38 | 19 | 164 | 31 | 3 |
| | 70 - 80 | 36 | 20 | 12 | 4 | 31 | 5 | 0 |
| | over 80 | 4 | 3 | 1 | 0 | 2 | 2 | 0 |

Generally speaking, conditions in penal institutions are adapted to younger prisoners, who comprise most of the prison population. Programs in the prison system have also been developed having in mind the needs of generally young persons.

In elderly prisoners there is higher frequency of a series of health issues, for example cardiovascular diseases, dementia, diabetes, Parkinson's disease, loss of hearing and vision, and some prisoners also require special care, which increases the demands imposed on the prison system. Also, chronological age and health condition of the prisoners are not often analogous, with a fifty-year-old prisoner's health condition quite probably being more similar to that of a sixty-year-old who is not imprisoned, which results in greater need of healthcare. Furthermore, when speaking of elderly prisoners, one should keep in mind also the difficulties connected with accommodation conditions, because a large number of stairs, difficulties connected with sanitary facilities, overcrowding, excessive heat or cold or alike can make the fulfilment of their basic needs more difficult.



In the Republic of Croatia, elderly citizens are accommodated with the general population and not in a specially adapted ward, which is something that should be changed in the future. For example, since the end of 2015 in Slovenia there has been a specially adapted ward intended for accommodation of prisoners who require additional healthcare due to age, sickness or disability.

Legal framework

Although the Annual Normative Activities Plan for 2015 prescribed the adoption of a new EPSA, it has not been adopted, and according to available information, not even the drafting has begun. Provisions of the Criminal Procedure Act that regulate the execution of remand imprisonment and treatment of prisoners are dated and flawed and they should be included in the amendments that are currently under way. This situation is surely not good because a great number of shortcomings or limitations of rights of persons deprived of their liberty who are in the prison system result precisely from the shortcomings of the normative framework.

4.3.2. Persons deprived of their liberty in police stations and detention units

The exercise of the rights of persons deprived of their liberty in police stations is especially significant, as indicated also by the recommendations of CAT.

Complaints of excessive use of means of coercion during the time a person is held at a police station and of the circumstance that in individual cases no reports were filed on the use of physical force indicate that there may have been cases of possible violation of human rights. Also, failure to fulfil the requirements prescribed in the Ordinance on Admission and Treatment of Arrested and Detained Persons and on the Records on Persons Detained in a Police Detention Unit, as well as those prescribed by the Standards of Rooms Where Persons Deprived of Liberty Are Held, indicates that there is significant possibility of improving the accommodation conditions without significant financial investments. In addition to that, accommodation conditions are an important fact in determining whether there was a violation of Art. 3 of the European Convention on Human Rights. A violation of privacy and failure to respect the dignity of persons deprived of their liberty occurs by having video surveillance that also covers sanitary facilities, just like in the situation where in rooms intended for accommodation of several persons the sanitary facilities are not separated by a partition. Similarly, direct availability of drinking water and use of sanitary facilities inside the rooms would prevent the prisoners being dependent on police officers and it would prevent the possibility of unprofessional treatment, while removal of ceramic tiles (to prevent their breakage and prisoners' self-injuries inflicted by using the broken tile pieces) and

A violation of privacy and failure to respect the dignity of persons deprived of their liberty occurs by having video surveillance that also covers sanitary facilities, just like in the situation where in rooms intended for accommodation of several persons the sanitary facilities are not separated by a partition.



use of adequate materials instead would result in a higher level of security. In most visited police detention units there is no specially designated area for the persons deprived of their liberty to stay in fresh air if they are held there for a longer period of time.

During the visits of the NPM, certain inconsistent treatments were found. Specifically, in some police stations records on total number of persons deprived of their liberty are kept only in electronic form, and in such a way that it is not possible to conclude whether the person has been informed of his/her rights. Considering that this information can only be checked by examining the individual case file, which can only be done during regular working hours of the station, this indirectly disables the performance of the tasks of the NPM.

The existence of an impartial investigation in situations when there are justified reasons to suspect that the rights of a person deprived of liberty have been violated is still in question, as well as the possibility of public verification of the investigation and efficient access of the complainant to the investigation procedure. In the case of *Mafalani vs. Croatia* (2015), the ECtHR ruled that state authorities were obligated to conduct, at their own initiative, an efficient and independent investigation at all times when the medical records lead to the conclusion that the person had suffered injuries during arrest. In accordance with the ECtHR case law, it is not sufficient to just conduct an investigation, but rather it has to be an efficient, thorough and independent one, which includes the obligation of gathering the required evidence. An investigation is not independent if it has been carried out by the police, because in that case there is a hierarchical and institutional connection. In this specific case, the ECtHR found that even the competent state attorney's office failed to undertake independent steps in implementation of an efficient investigation and gathering of required evidence but rather that they limited itself to a police-internal evaluation of legality and justifiability of the use of means of coercion. A violation of the procedural aspect of Article 3 of the Convention on Human Rights was confirmed and it was indicated that whenever there is a credible allegation that an individual suffered serious abuse by the police, it is implicitly required for an efficient official investigation to be conducted and for it to lead to identification and penalizing of the responsible parties. For the purpose of ensuring that the investigation is thorough, the authorities always have to invest serious efforts to determine what actually happened, and in concluding the investigation the authorities should not rely on hasty or unfounded conclusions.

The situation in which citizens do not have the opportunity to make use of the option of filing a complaint to the Committee, as a form of civil supervision over the police, represents an additional indication of the shortcomings of the system, when it is required to conduct independent investigation of a complaint filed due to police treatment.

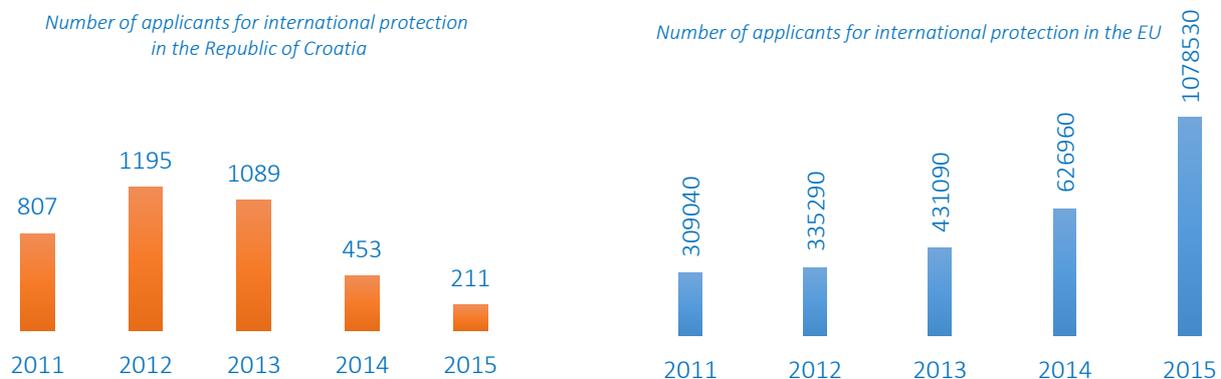


4.3.3. Applicants for international protection, irregular migrants and persons who have been granted international protection

Ensuring the respect for the basic human rights of applicants for international protection, irregular migrants and persons with granted international protection has become an increasingly burning issue, especially since the outbreak of the refugee crisis.

A Common European Asylum System (CEAS) has been forming at the EU level for the last ten years with the aim of establishing a unique and consistent procedure in granting international protection. Such approach has resulted in harmonization of national legislation with directives and regulations of the European Union and in the adoption of the Act on International and Temporary Protection (hereinafter: AITP) in 2015.

Each year, more than 80% of applicants for international protection leave the Republic of Croatia prior to the decision being made on their application, so the majority of procedures still get suspended, which clearly indicates that, for most of them, it is not a destination, but a transit country. This was especially evident during the refugee flow, in which out of 555.700 persons who entered the Republic of Croatia by 31 December 2015, only 21 had requested international protection. The reasons for that are, among others, less successful measures of integration and lesser material rights, both during the procedure and after being granted protection.



Source: Ministry of the Interior and Eurostat

In 2015, international protection was recognized in 43 cases, in which 36 persons were granted asylum and seven received subsidiary protection. Twelve applicants for international protection lost the right to stay in the Republic of Croatia upon filing a new subsequent application following the entering into effect of the AITP after the decision on impermissibility had already been granted under their prior subsequent application. However, during the course of the procedure initiated based on the new application, only two of them were accommodated at the Foreigners Reception Centre, while the whereabouts of the others were unknown, including whether they were still in the Republic of Croatia or if they had left the country.

By virtue of the new AITP, the rights of applicants for international protection have been decreased in comparison to the Asylum Act. Specifically, in order to prevent abuse of the



system of national protection, provisions have been prescribed with regard to the subsequent application, which leave the possibility of filing one following an enforceable decision denying the prior application or terminating the procedure due to the applicant's withdrawal. If an applicant does file a new subsequent application, after a decision on impermissibility of the prior subsequent application had already been adopted, such applicant shall not have the right to stay in the Republic of Croatia, despite the fact that the procedure is pending. This solution raises the question of how an applicant can actively participate in the process, and an especially difficult situation occurs in the implementation of the decision on return for persons whose citizenship has not been confirmed during the process of granting international protection or for persons whose whereabouts are unknown.

According to data from the Ministry of the Interior, 41 applicants for international protection were accommodated at the Foreigners Reception Centre Ježevo during the procedure. The AITP was aimed at reducing limitations to the freedom of movement by accommodation in a foreigners' reception centre, i.e. at developing measures that would be an alternative to detention, but a comparison of the total number of applicants (211) and applicants whose freedom of movement was limited at the reception centre shows that this was clearly unsuccessful.

Due to the refugee crisis, the Reception Centre for Asylum Seekers in Zagreb was closed, and all applicants were accommodated in the Reception Centre for Asylum Seekers in Kutina, which was used only for accommodation of vulnerable groups after June 2014. Consequently, this can be regarded as a setback in terms of accommodation organization, especially in terms of identification of applicants with special reception needs, as legally prescribed. The premises of the Reception Centre for Asylum Seekers in Zagreb were used only during the first days of the refugee crisis, and after that nobody was accommodated there by the end of 2015.

The AITP also prescribes a framework for implementation of the institute of relocation of third-country nationals or stateless persons and for accommodation of a certain number of persons from another member state who have been granted international protection, for the purpose of sharing the load under the intra-EU solidarity principle. So, at the proposal of the EC, the Republic of Croatia adopted a decision on accommodation of 550 persons via so-called Quotas, but later it decided to use a different relocation scheme to accept an additional 568 applicants for international protection and refugees from Greece and Italy. However, as a result of the refugee crisis, the implementation of that Decision has not started.

Regardless of the movements of refugees along the Balkan route, 3.759 persons were found in Croatia, for whom 1,436 decisions on deportation and 2.868 decisions on return (mostly for citizens of Afghanistan, Albania, Bosnia and Herzegovina, Iraq, Pakistan, Syria and Serbia) were made, while 691 persons were subjected to forced return⁷. An efficient system of monitoring forced returns is provided by the Ministry of the Interior, to which effect it concludes contracts

⁷ Also referred to as "involuntary returns"



with other state bodies and international and non-government organizations. However, this system has not been in place since July 2015. Being aware of the importance of establishing a system of supervision of forced returns in accordance with the Return Directive (2008/115/EC), as well as of the practice of some member states in which this system is performed by the ombudsman (Bulgaria, Denmark, Greece, Estonia, Finland, Latvia), the Ombudsman of the Republic of Croatia as an independent institution can only implement such supervision efficiently if it is done in accordance with UN Principles Relating to the Status of National Institutions (Paris Principles), and with a clearly defined legal framework and availability of adequate funds in the state budget.

In the Republic of Croatia there was one detention centre for irregular migrants in 2015, namely the Foreigners Reception Centre in Ježevo. The construction of two more Transit Reception Centres is currently under way (in Trilj and in Tovarnik) and they are scheduled to open in 2016.

4.3.4. Persons with mental disorders

“Let those who put me here pay, I have no such intention.”

Accommodation conditions at certain wards of psychiatric institutions are still unacceptable. There is an encouraging fact, however, that after several years of delay, in the end of 2015 construction began on a new Department for Forensic Psychiatry of Vrapče Psychiatric Clinic. Unfortunately, the situation remains unchanged at the Psychogeriatric Ward, where elderly patients with mobility issues are accommodated in humiliating conditions, which requires immediate measures to be taken for the purpose of improvement of those conditions.

As of January 2015, a new Act on Protection for Persons with Mental Disorders has been in effect, and it has remedied many shortcomings. For example, except in cases of involuntary hospitalization, now each person who is voluntarily hospitalized in a psychiatric hospital has to give a written consent, where only verbal consent used to suffice, sometimes even without adequate record to that effect. To the best of our knowledge, psychiatric institutions follow the procedure of involuntary hospitalizations and the prescribed time limits.

Just like in previous years, there is still a lack of adequate centres for protection of mental health at a local level, the activities of which would (among other things) reduce the rate of institutionalization of persons with mental disorders and make their stay in their own families easier.



Persons with mental disorders who do not have supplementary health insurance are charged a participation fee during involuntary accommodation in psychiatric institutions, unless their diagnosis is indicated in the decision of CHIF about the list of diagnoses the treatment for which is completely covered by compulsory health insurance. In 2015, at Vrapče Psychiatric Clinic alone there were 70 involuntarily hospitalized persons with such diagnoses, 20 of which did not have supplementary health insurance. Such regulation is unacceptable, as in situations of involuntary hospitalization, any person who has been so hospitalized, regardless of his/her diagnosis, should not be charged participation in the costs of treatment. Considering that the new Act on Protection for Persons with Mental Disorders prescribes that the state budget shall only provide the funds for costs of involuntary placement of mentally incompetent persons in a psychiatric institution, it is necessary for this Act to be amended so that the funds for involuntary placement in psychiatric institutions be provided from the state budget for all involuntarily hospitalized persons, regardless of their diagnoses, and that general regulations regulating participation in the costs of treatment be harmonized.

Accommodation conditions at certain wards of psychiatric institutions are still unacceptable. The situation remains unchanged at the Psychogeriatric Ward of Vrapče Psychiatric Clinic, where elderly patients with mobility issues are accommodated in humiliating conditions.

4.4. CAPACITIES, INTERNATIONAL COOPERATION AND AMENDMENTS TO THE ACT ON THE NPM

4.4.1. Amendments to the Act on the National Preventive Mechanism

Amendments to the Act on the NPM entered into force in April 2015 which remedied the shortcomings of the previous normative framework. The most significant amendments were the ones that enabled cooperation with a greater number of associations and independent experts instead of having two representatives of the academic community and two representatives of associations involved in the performance of tasks of the NPM. The possibility of cooperation with specialized ombuds has also been explicitly prescribed. At the same time, in July 2015, a new Ordinance on Selection Procedure and Work Method of Associations Registered for Performance of Activities in the Field of Human Rights Protection and Independent Experts in the NPM (hereinafter: NPM Ordinance) has been adopted.

Pursuant to the provisions of the Act on the NPM and the NPM Ordinance, the Ombudswoman published a public call for proposals in November 2015 for the selection of independent experts and associations, which was published on the Ombudswoman's website and also delivered to the academic community and to numerous professional associations and scientific institutions.



After having conducted the procedure, five associations and 15 independent experts were selected who will be involved in the performance of tasks of the NPM. Having this many associations and independent experts, combined with cooperation with specialized ombuds, will surely contribute to more efficient protection of persons deprived of their liberty.

4.4.2. International cooperation in performance of tasks of the NPM

Last year we participated in two meetings of the South-East Europe NPM Network, which were held in Tirana. The first meeting dealt with providing of healthcare to persons deprived of their liberty, while the second was focused on the current refugee crisis in the region, the treatment of applicants for international protection and forced returns. In Strasbourg we participated in a CPT conference about combating impunity in the police and prisons, about juveniles in detention, healthcare in prisons and solitary confinement units and about the standards of CPT for psychiatric institutions. Also, in Vienna we participated in the final convention and presentation of a study on strengthening efficient supervision of implementation of recommendations against torture. Furthermore, we took part in the workshop for NPMs regarding implementation of preventive mandate, which was held in Riga and organized by APT, IOI and the Ombudsman of Latvia. In terms of our work in the field of asylum and migration, we took part in the meeting of the European Network of Ombudsmen in Madrid, which dealt with supervision of forced returns. In November we were hosts to representatives of the Slovenian NPM who came for a study visit with the aim of exchanging experiences and learning about the work methods of the Croatian NPM.

4.4.3. Capacities of the Office of the Ombudswoman for the performance of tasks of the NPM

In 2015, two new employees were employed in the Department for Persons Deprived of Liberty and the NPM, so in addition to the Deputy Ombudsman who manages the department, there are now seven persons who perform the tasks of the NPM and handle complaints. At the same time, there were two trainees admitted at the department for the purpose of one-year professional training without entering into an employment relationship.

The State Budget for 2015 provided HRK 131.000 for a special activity under the budget of the Office of the Ombudswoman, which was dedicated to the performance of tasks of the NPM. This amount pertains to material costs of performing the activities of the NPM and does not include expenses for employees. The Proposal of the State Budget for 2016 foresees HRK 138,781 for the performance of tasks of the NPM.

Although new employments, amendments to the Act on the NPM and planned increase of funding contribute to the efficiency of performance of tasks of the NPM, according to CAT recommendations it is still required to strengthen human and material resources of the Office for Performance of Tasks of the NPM, especially when taking into consideration potential new mandates, for example supervision of forced returns.



RECOMMENDATIONS:

Persons deprived of their liberty who are in the prison system:

146. To the Ministry of Justice, to investigate in detail all allegations indicating possible torture and inhuman or degrading treatment, including allegations of verbal abuse and use of excessive force;
147. To the Ministry of Justice, to adopt a new Act on Execution of the Prison Sentence and to remedy the shortcomings in the part of the Criminal Procedure Act that pertains to execution of remand imprisonment;
148. To the Ministry of Justice, to adapt accommodation conditions in all penal institutions to comply with legal and international standards;
149. To the Ministry of Justice and the Ministry of Health, to provide supplementary health insurance for all prisoners who are without regular income;
150. To the Ministry of Justice and the Ministry of Health, to adapt the space and equipment in the medical facilities of penal institutions to comply with prescribed minimum requirements;
151. To the Ministry of Justice and the Ministry of Health, to enable prison physicians to issue prescriptions for medications and referral slips that will be accepted by external medical institutions;
152. To the Ministry of Justice and the Ministry of Health, to implement legislation changes so that the healthcare of prisoners be entirely covered by the public healthcare system;
153. To the Ministry of Justice and the Ministry of Health, to adopt a protocol on treatment of hunger strikers;

Persons with mental disorders who are in psychiatric institutions:

154. To the Ministry of Justice and the Ministry of Health, to implement legislation changes to ensure that the costs of involuntary detention and involuntary institutionalization in a psychiatric institution be paid from the state budget;

Persons deprived of their liberty in police stations:

155. To the Ministry of the Interior, to thoroughly investigate all allegations of inhuman and degrading treatment of persons deprived of their liberty, and also in cases when there is suspicion of unjustified or excessive use of means of coercion;
156. To the Ministry of the Interior, to adapt the accommodation conditions in rooms for persons deprived of their liberty to comply with international and legal standards;

Applicants for international protection, irregular migrants and persons who have been granted international protection:

157. To the Ministry of the Interior, to ensure separate accommodation of vulnerable groups of applicants for international protection;
158. To the Ministry of the Interior, to reduce the limiting of the freedom of movement of applicants for international protection by accommodating them at the Foreigners Reception Centre through implementation of measures that are milder than those that usually serve to enable the same purpose;



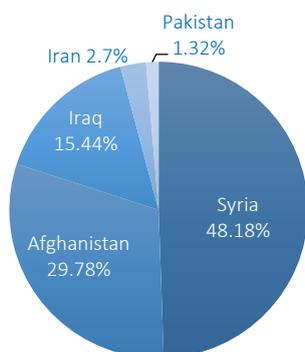
5. GENERAL INITIATIVES

5.1. REFUGEE CRISIS OF 2015

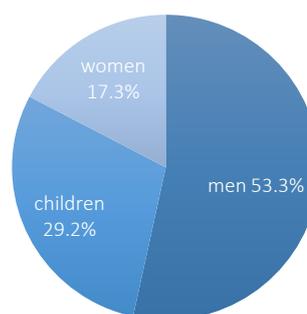
When Hungary completed the construction of a barbed wire fence and closed all border crossings with Serbia in September 2015, the refugee routes that used to follow the so-called Balkan route, going from Greece and Macedonia to the Hungarian border, diverted to the Republic of Croatia. In the period from 16 September to 31 December 2015, a total of 555.700 refugees passed through Croatia. Based on a statistical analysis of the data for 507,215 persons, it is visible that 48.18% of them came from Syria, 29.78% from Afghanistan, 15.44% from Iraq, 2.7% from Iran and 1.32% from Pakistan. There were 53.5% of men, 17.3% of women, and 29.2% of children. During that period, a total of 24 persons filed applications for international protection in the Republic of Croatia, of which three persons were granted asylum, 14 applications were denied due to failure to fulfil the requirements, two were denied due to jurisdiction of another member state and as far as the remaining five are concerned, their procedures are still pending.

On the first day, a total of 1.191 refugees entered the Republic of Croatia, and on the second day that number jumped to as many as 9,812. The system was not sufficiently prepared for such a large number of entries happening practically overnight, and the local communities, especially the competent police administrations, invested great efforts into solving the newly-arisen situation. Although transit of refugees toward the border with Hungary and Slovenia was organized within as little as 24 hours, many difficulties would have been avoided had there been better preparation for the situation that was foreseeable. Three days after the beginning of the crisis, the Camp for Temporary Accommodation of Refugees was opened in Opatovac (hereinafter: Opatovac Camp). Initial organizational problems were solved quickly and on the spot, and the opening of a Winter Transit and Reception Centre in Slavonski Brod (hereinafter: Transit Centre in SB) solved most of the problems identified by that time.

Data according to the country of origin of 507,215 refugees who passed through the Republic of Croatia in 2015



Data according to gender of 507,215 refugees who passed through the Republic of Croatia in 2015



Ever since the beginning of the crisis, several teams of the Office of the Ombudswoman made 26 unannounced visits to 17 locations where refugees stayed on their way through the Republic of Croatia, especially border crossings, registration centres and facilities where they were accommodated. Apart from that, good cooperation and regular contact was achieved with the crisis headquarters, ministries, international organizations, civil society organizations, volunteers, local communities and other stakeholders, which gave us a more detailed perspective of the overall situation. The purpose of the visits was to determine how human rights and dignity of the refugees were respected, especially with regard to the provision of humanitarian aid, including adequate accommodation and healthcare, the possibility of seeking international protection and the treatment by the police.

DEFINITIONS OF TERMS AND LEGISLATION

International sources

A refugee is most broadly defined as a person who is forced to leave the place of his/her residence due to events that are beyond this person's control and that can be caused either by natural elements or by human intervention.

However, according to the 1951 Convention Relating to the Status of Refugees (hereinafter: Convention), a refugee is any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is unable or, owing to such fear, is unwilling to avail him/herself of the protection of that country. Under the same conditions, a refugee can also be a person without nationality who is outside the country of his/her habitual residence.

The fundamental right of refugees under the Convention is the right to non-refoulement, i.e. the right not to be returned to their country of origin or to another country where their lives or liberty would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. Apart from the Convention, the following documents also forbid refoulment, whether explicitly or by way of interpretation: Convention Against Torture, International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the EU. These documents, along with the General Declaration on Human Rights, are the sources that prescribe fundamental human rights and the rights of refugees, so international protection of refugees is therefore a part of the system for protection of human rights, seeing as fundamental human rights that a person enjoys do not cease based on the fact that the person has become a refugee.

A person does not become a refugee by recognition of his/her refugee status by any country, but rather by fulfilling the requirements prescribed by the Convention and the above mentioned international documents. On the other hand, the exercise of almost all rights guaranteed to those refugees is left to the country that receives them. In that context,



international and European refugee protection mechanisms take into account the sovereignty of countries, and recognition of refugee status is carried out by exercising the national, mostly constitutional right and through discretionary authorizations of competent bodies, who can only recognize this status to a person after having conducted a relevant procedure. This kind of approach leads to the use of different terms for persons moving along the current Balkan route.

With regard to the procedure of recognizing one's refugee status, which begins with his or her expression of intention to seek international protection, one has to differentiate between applicants for international protection/asylum and an asylee and the person who has been granted subsidiary protection. At arriving at the border or territory of another country, a refugee may seek international protection, which will make him/her an applicant for

In 2015, only the citizens of Syria, Afghanistan and Iraq were considered to come from war-stricken and unsafe countries, and considering the fact that 93.4% of persons who entered the Republic of Croatia via the Balkan route were citizens of precisely those countries, it is certainly safe to say that Croatia faced a refugee crisis.

international protection in the eyes of the state bodies of the country where he/she currently is. An applicant for international protection has certain rights, one of the most significant being the right to stay there during the procedure. After recognition of the right to international protection, the status of asylee is recognized to the person who fulfils the criteria listed in the definition of a refugee, and this includes the maximum scope of rights that the receiving country can grant, while subsidiary protection implies a smaller scope of rights, mostly pertaining to stay in the relevant country and to

identification documents. Therefore, asylum includes the complete protection that a country provides to refugees.

In this sense, the modern-day migration movements are complex, with persons moving within mixed migration routes and leaving the countries of their origin for various reasons. One of the common reasons is the desire to improve one's financial status. Economic migrants often move along the same migration routes as the refugees, but unlike them, they enjoy the protection of their country and they can return to it safely if they wish to do so. By crossing the state border without a proper travel document and/or visa, an economic migrant becomes an irregular migrant and is unable to obtain a legal status in the country of entry. All persons involved in migrations can seek international protection and thus change roles along their route, depending on the outcome of the procedure.

In the international and European political context in 2015, only the citizens of Syria, Afghanistan and Iraq were considered to come from war-stricken and unsafe countries. Considering the fact that 93.4% of persons who entered the Republic of Croatia via the Balkan route were citizens of precisely those countries, it is certainly safe to say that Croatia faced a refugee crisis. Regardless of that, even the citizens of other countries who were part of migration movements also had to be provided with access to not only international protection, but also to all other required humanitarian aid and protection of dignity.

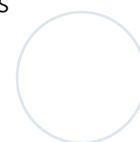


European asylum system and legislation of the Republic of Croatia

In order to fulfil the basic objectives of the EU – establishing of a common market and an economic and monetary union, it was necessary to open the borders between member states and establish free movement of goods, services and people. This started with the Schengen Agreement of 1985, and today there are 26 European countries that are part of the so-called Schengen Area. This resulted in the problem of migrations and the need to harmonize national asylum policies, which led to the development of CEAS. The foundation of that system is the decision of the EU on full implementation of the Convention complemented by the New York Protocol, which primarily emphasizes the non-refoulement principle, with introduction of mandatory legal instruments that prescribe minimum standards that member states have to comply with when adopting national regulations in the field of asylum i.e. international protection. In this context, directives serve to prescribe common minimum standards, while member states can choose the most appropriate forms and methods for their implementation in national systems, unlike the regulations that are directly applicable and fully binding for member states. The main components of the CEAS have been defined by the Asylum Procedures Directive, the Reception Conditions Directive (ensuring humane material conditions of reception and full respect for their fundamental rights), the Qualification Directive, the Temporary Protection Directive, the Dublin Regulation and the EURODAC Regulation. These have been complemented by the Return Directive and Long-term Residence Directive, which deal with legal and illegal migrations. Apart from that, a framework for implementation of the institute of relocation of citizens of unsafe countries outside the EU or reception of a certain number of persons from another member state who seek or have been granted international protection, for the purpose of sharing the load according to the solidarity principle within the EU, has been adopted.

By accession to the EU, the Republic of Croatia became obligated to harmonize its national legislation with EU directives and regulations. This has been achieved by the adoption of the Act on International and Temporary Protection in July 2015, which we have presented in more detail in the chapter about applicants for international protection, irregular migrants and persons who have been granted international protection.

In order to understand the refugee crisis, the Dublin Regulation is very significant as it emphasizes the CEAS based on a comprehensive and all-encompassing implementation of the Convention and New York Protocol, which ensures the respect of the principles of non-refoulement so signatory states are considered to be safe countries for citizens of non-EU countries. The Dublin system clearly assigns responsibility to member states to process the applications for international protection i.e. it prescribes that the primary responsibility for the evaluation of such applications lies with the member state that played the greatest role in the entry and stay of the applicant in the EU. The criteria for determining such responsibility move hierarchically, from family connections to recent holding of a visa or permit to stay in the member state, including the fact whether the applicant entered the EU illegally or legally. In that sense, if he/she crossed the border illegally, the country he/she entered that way is



responsible for evaluating the application for international protection in the biggest number of cases. The Dublin Regulation is complemented by the EUODAC Regulation, by virtue of which member states immediately take fingerprints of each applicant for international protection or irregular migrant and deliver them to the central system no later than within 72 hours. However, member states in the Balkan route have selectively applied these Regulations, because implementation of registration according to the Dublin system would make them the first countries of entry and thus most commonly the countries responsible for implementation of the international protection procedure, or they would be obligated to return those persons to their countries of origin or to a safe country as irregular migrants.

When deciding on how to treat refugees, Hungary placed higher priority on the preservation of its state border than on the issue of protecting their rights and ensuring treatment that would be in accordance with the Convention and the Protocol.

Other countries, after initial disagreement, finally came to an agreement on establishing a humanitarian corridor where refugees would be ensured safe passage to the countries of their destination, leaving it to each individual refugee to choose whether he/she wishes to seek international protection in any of the transit countries. Such conduct of transit states can also be regarded as a way of ensuring the rights of refugees in line with the Convention. However, for fear of closing of the borders of reception countries, the transit countries (including Croatia) used profiling at the borders to reduce the number of refugees that were allowed entry into their territory. First attempts at reducing the inflow of refugees were based on the approach which allowed the citizens of Syria, Afghanistan and Iraq to pass through the corridor, while citizens of other countries were denied this right. This meant that a presumption was implied that citizens of all those other countries were irregular migrants, which was completely unacceptable and basically discriminatory, because criteria for profiling were skin colour, excellent knowledge of geography of the country of origin and correct pronunciation of the language, where the determining of these facts was left to subjective assessment of police officers or even interpreters.

First attempts at reducing the inflow of refugees were based on the approach which allowed the citizens of Syria, Afghanistan and Iraq to pass through the corridor, while citizens of other countries were denied this right, presuming that they were irregular migrants. This was completely unacceptable and basically discriminatory, because criteria for profiling were skin colour, excellent knowledge of geography of the country of origin and correct pronunciation of the language, where the determining of these facts was left to subjective assessment of police officers or even interpreters.

Measures that the EC intends to use to contribute to the solution of the refugee crisis primarily pertained to activation of a permanent mechanism for relocation of refugees, a common list of safe countries of origin and an efficient policy of returning irregular migrants. All those elements should represent a part of the evolution of the Common European Asylum System. However, these measures do not represent an adequate response to the mass inflow of



refugees, especially due to the poor interest on the part of member states to work together in helping the countries of first entry, regardless of them being EU members (relocation) or third countries (resettlement). In these procedures, the distribution of refugees in countries depends primarily on the total number of inhabitants and the GDP, but also on the average number of applicants for international protection in the period from 2010-2014, as well as the unemployment rate. At the proposal of the EC, most EU member states adopted the decision on reception of a certain number of refugees via so-called quotas, but the actual implementation of this plan is slow and inefficient. The Republic of Croatia decided to receive 550 persons, and subsequently it agreed to receive 568 more under a new relocation scheme.

One of the mechanisms that the EU has at its disposal is the activation of the Temporary Protection Directive, which prescribes minimum standards for granting and implementing temporary protection in the event of a mass inflow of displaced persons when it is not possible to conduct regular procedures for granting international protection. Mass inflow implies a large number of persons coming from a specific country or geographic area, regardless whether their arrival is spontaneous or organized. It can be declared by the Council of Europe by a qualified majority vote, at the proposal of the EC, and application can be filed by any member state; however, no state has filed such an application. Activation and implementation of the Directive depends on solidarity, willingness and intention of the countries to accept refugees, which has proven to be insufficient in the case of implementation of relocation quotas. Application of the principle of solidarity is made more difficult by the resistance to receiving refugees for fear of terrorism, with neglect to note that it was precisely such reasons that have forced the refugees to leave their homes in the first place.

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International standards for refugee camps

When refugees enter the territory of a country, state authorities have to respect their human rights and dignity, and in particular they have to ensure that they are not treated in an inhuman and degrading manner, which means that the refugees have to be provided with minimum conditions for fulfilling the basic necessities of life: adequate accommodation, food, water and sanitary conditions, as well as healthcare. In this context, there is a difference between long-term accommodation and short-term, transit accommodation.

When it comes to limiting the freedom of refugees, the standards for their accommodation and rights that they have are prescribed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and certain standards are also prescribed by the Association for the Prevention of Torture (APT). These rules regulate minimum rights that should be respected in the limiting of one's freedom of movement, and



they pertain to: basic accommodation in a clean and safe environment (food, water, place to rest, toilets, showers), access to healthcare and legal aid, as well as measures for protection of vulnerable groups.

On the other hand, UNHCR prescribed standards for transit centres, such as Opatovac and Slavonski Brod, where refugees stay for a very short time. At such places it is important to provide them with a sheltered area, a safe and healthy environment, with respect of privacy and dignity of persons who stay there for short periods of time (2-5 days). Special attention has to be paid to minimum dietary requirements and availability of drinking water, hygienic conditions and healthcare.

According to UNHCR standards for transit centres, such as those in Opatovac and Slavonski Brod, special attention has to be paid to minimum dietary requirements and availability of drinking water, hygienic conditions and healthcare.

Apart from the basic healthcare services, it is required to ensure continuation of receiving medications and assistance provided to persons who are in serious health conditions or who have specific healthcare demands. All refugees in transit centres have to have access to food, in which context special attention should be paid to children, pregnant and breastfeeding women. It is important to enable everyone to have access to water, sanitary facilities and hygiene, to maintain regular cleaning of the toilet facilities and to enable access to information on promotion of hygiene.

Activities of the Office of the Ombudswoman

From the beginning of the refugee crisis in Europe, the Office of the Ombudswoman closely monitored all events related to movements of refugees and respect for their rights. Given that Hungary had announced the closing of the borders and completion of construction of a wire fence in August 2015, it became highly likely that the refugee route would change, so two days prior to entry of the first refugees into the Republic of Croatia, we organized an expert meeting at the Croatian Parliament, which was attended by relevant representatives of state bodies, international and civil society organizations. The aim was to encourage cooperation and exchange information about the differences between the definitions and rights of refugees and migrants and the methods how the state bodies intended to respond to the challenges of a potential crisis in the Republic of Croatia. We also visited the Foreigners Reception Centre in Ježevo and the Reception Centre for Asylum Seekers in Kutina, to gather information about preparations for the arrival of a large number of people.

After the arrival of the first refugees into the Republic of Croatia, several teams of the Office visited key points of their movement and stay, during daytime and at night. In 26 occasions we visited 17 locations: border crossings (Bregana, Botovo, Gola, Harmica, Baranjsko Petrovo Selo, Goričan, Batina and Bapska), the railway station and police station in Tovarnik, temporary registration and reception centres (Ježevo, Porin, Velesajam, Beli Manastir, Čepin), Opatovac Camp and the Transit Centre in SB.



During the field visits we achieved good cooperation with the Ministry of the Interior, but also with other stakeholders, by participating in headquarter and coordination meetings for organizations during each visit of the Ombudswoman in the field. We also gave many verbal recommendations, many of which were immediately implemented, pertaining to providing of information and accommodation to refugees, treatment of vulnerable groups, availability and quality of healthcare, night-time organization of work and schedule for volunteers, distribution of food, clothes, blankets and other. Some of the problems we pointed out could not be resolved until sufficient capacities were developed or international agreements reached.

As far as the involvement of the Office in international activities is concerned, apart from joint visits to the Transit Centre in SB and the Reception Centre in Šid with the Ombudsman of Serbia and visits to the Transit Centre in SB with the Ombudsmen of Bosnia and Herzegovina and the representative of the European Network of National Human Rights Institutions, the Ombudswoman actively participated in preparation and adoption of the Belgrade Declaration on the Protection and Promotion of the Rights of Refugees and Migrants, reminding the countries of their obligation to comply with international treaties and conventions and inviting them to ensure access to asylum for everyone, to fulfil the obligation of prevention of inhuman and degrading treatment and to strengthen integration measures. With regard to issues that arose after the shifting of the refugee route toward the Slovenian border, cooperation was achieved with the Slovenian Ombudswoman, and there was also regular cooperation with the EU Ombudsman and the EU Fundamental Rights Agency.

Accommodation

On the first day of entry in the Republic of Croatia, refugees were transported, mostly in an organized manner, from the border between Croatia and Serbia to the Foreigners Reception Centre in Ježevo and the Asylum Seekers Reception Centre in Zagreb, where they were provided adequate accommodation. As soon as on the following day, the City of Zagreb furnished one pavilion of Velesajam with 2.600 mattresses for temporary accommodation, and temporary reception centres were open in Čepin and in Beli Manastir as well. Challenges that characterized the first days were caused by the weather conditions, but also capacities – it was crowded, hot, there was a lack of police officers and volunteers, interpreters, portable toilets, baby food and other. During registration, a large number of persons had to wait in the sun and without access to sanitary facilities. In the temporary centre in Beli Manastir there were problems with electricity, water, lack of supplies and blankets. Because transport to borders with neighbouring countries was organized as soon as on the following day, this situation did not last.

Despite the fact that refugees stayed at Opatovac Camp for no longer than 24 hours, the conditions in the camp were not adequate during cold and rainy weather.

Only three days after the beginning of the crisis, Opatovac Camp was opened, with the accommodation capacity of approximately 4.000 persons. Accommodation was provided in tents, which were arranged in sectors. Beds and heated facilities were provided only for



vulnerable groups. After registration, the Croatian Red Cross (hereinafter: CRC), together with volunteers, civil society organizations and international organizations, handed out water, food, blankets, sleeping mats, raincoats, clothes and footwear, but at times there was a shortage of blankets, sleeping mats and warm and dry clothes and footwear. Also, during the first few days there was a shortage of volunteers during night shifts. Infrastructural interventions, such as construction of paths, erecting of tents and alike, were the responsibility of the Croatian Army. Although the refugees stayed there for 24 hours at most, Opatovac Camp was not adequately prepared for cold weather and rainy conditions. On the floors of some tents there were pallets, while in others there were only plastic tarps; there were no beds or heating so during rainy weather refugees often sat and slept in the cold and mud. There was a Family Unification Service and Service for Psychosocial Help available at the Camp, but during our visits we did not actually see psychosocial help being provided. In each sector there were many chemical toilets, and in some sectors there were also CRC tents where one could get food and clothes. In one part of the Camp there were separate men's and women's tents with showers.

The opening of the Transit Centre in SB resolved most of the problems identified by that time. Organization of the new camp represented great improvement when compared to the Opatovac Camp, due to the new camp's size, availability of heated facilities, better organization of state bodies and civil society organizations and available organized transport. In each of the sectors there was a special area where there was a container for dispensing of food and clothes, for providing of medical assistance (although there were no employees of the Ministry of Health there at the time of the visits) and for support to families with small children. In each sector there were sanitary containers, toilets and showers marked by labels "Men/Women", tents for prayer, place for charging mobile phones, wireless internet and waste bins. The ground was covered with gravel so there was no mud during bad weather. In the Transit Centre in SB refugees spent six hours on average, so despite the fact that automatic operation and efficiency of transit was commendatory, the prioritization of transport was nevertheless often at the expense of individual needs of those people, especially vulnerable groups.

In both camps, cleaning took place by public works. Chemical toilets and showers were regularly maintained, sectors were thoroughly cleaned after each departure and the quality of their maintenance is evident from the fact that there were no contagious diseases.

Registration

Pursuant to the Dublin Regulation, all applicants for international protection and irregular migrants who have crossed the border without authorization have to get registered, i.e. their fingerprints have to be taken for the EURODAC database. However, countries that were faced with a large number of arriving refugees diverged from those legal frameworks, so in December the EC issued a formal warning to the Republic of Croatia and other member states due to incorrect implementation of the EURODAC Regulation during registration.



Registration in the Republic of Croatia involved the collection of personal information, information about the country of origin, taking of fingerprints on paper and taking of the persons' photographs. It was performed by police officers specialized in illegal migrations. On the first day, registration was done in Tovarnik, but due to extremely intense pressure, this was no longer possible on the following day, so refugees were transported to temporary registration centres in Čepin, Ježevo, Beli Manastir, Luč, Torjanci, Sisak and Hotel Porin in Zagreb. Due to insufficient capacities for carrying out fast and efficient registration, in Ježevo people spent the whole day waiting outdoors, on a sports field, in the heat, without an

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adequate place to rest and without a sufficient number of showers or drinking water.

After the opening of Opatovac Camp, persons without travel documents were regularly registered and their photos were taken, while for others photocopies of documents were made. Refugees waited in a sheltered area, with the possibility of resting on benches, and they were given instructions by interpreters. At registration, police officers generally did not give them verbal information about the possibility of seeking international protection, but there was a notice on the registration desks informing the refugees of that possibility. The notice on obligation of having one's fingerprints taken was given in various languages (Turkish, Arabic, Farsi, Somali, English), but the refugees usually refused to do this and were not forced to. In most cases, decisions on the need to leave the EEA were not issued, and when they were issued, they were in Croatian, although there were some in English and in French.

After the opening of the Transit Centre in SB, the registration procedure was made faster due to use of tablet computers, which digitalized and automated the registration. Fingerprints were taken, together with basic personal information, and the persons were photographed, which was only for internal use of the Republic of Croatia. Fingerprints of children under the age of 14 were not taken. Due to the speed of the process and a large number of arriving refugees, the decisions on leaving the EEA were still rarely issued.

Healthcare

The right to health is one of the fundamental social rights guaranteed by the International Covenant on Economic, Social and Cultural Rights for everyone, regardless of their status. The Covenant has been ratified by all EU member states. Timely and adequate healthcare provided to refugees represents recognition of their vulnerable position, which among other things, contributes to a sense of security during times of personal hardship. From the first entry of refugees into the Republic of Croatia, healthcare was provided by medical teams of the Ministry of Health, the international organization Magna, and by mid October 2015 also by Doctors Without Borders.



At border crossings there were mostly ambulances of the Ministry of Health, but they were often too far away and not sufficiently visible, and medical teams stayed at the vehicle waiting for the people who need their help to contact them, which is probably the reason why there were fewer interventions than may have been actually required. On the other hand, at Harmica border crossing we witnessed an exceptional, self-organized volunteer involvement of physicians. At Opatovac Camp, as a result of somewhat longer period of refugees' stay (between several and 24 hours), healthcare was organized in an infirmary placed next to the registration tent and inside the camp there was a Magna tent and an ambulance. Transit Centre in SB had an infirmary in each sector of the camp, as well as one next to the registration section, and it also had a medical station, which meant a significant improvement in infrastructure. Initial triage was organized at registration, and it involved refugees with health problems having to contact the police officer, which represented an additional burden for them. Apart from that, teams of physicians of the Ministry of Health were not present at the sectors in both camps, and for security reasons organization was based on the expectation that the refugees would come on their own and request medical assistance, again with the help of the police officer. At the same time, with constant presence of the police, there were also volunteers and employees of UNICEF, UNHCR, Magna, Save the Children and other civil society organizations who were constantly present in the sectors, without any recorded incidents or threats to their safety.

Unlike the medical teams of the Ministry of Health, whom the refugees had to contact on their own or accompanied by police officers and/or volunteers, the medical teams of Magna and of Doctors Without Borders regularly approached the refugees and performed so-called quick screening of their general condition.

By 31 December, physicians of the Ministry of Health had examined 21.694 refugees, which included 4.343 examinations by the emergency medical team, 16.130 examinations by family medicine practitioners in the field, 591 occasions of hospital treatments and there were 630 persons who were treated at the medical station of Transit Centre in SB. In addition to that, the number of interventions of Magna was approximately 14.000.

The role of international medical teams of Magna and Doctors Without Borders was a significant complement to the availability of healthcare for everyone who needed it, because it was provided proactively. Unlike the medical teams of the Ministry of Health, whom the refugees had to contact on their own or accompanied by police officers and/or volunteers, the medical teams of Magna and of Doctors Without Borders regularly approached the refugees and performed so-called quick screening of their general condition. They moved about all over the camp, which demonstrated their required adaptability to the people and to the conditions of work.

The importance, but also the economic feasibility of a preventive approach to healthcare of migrants in irregular situations was confirmed by the Report of the European Union Agency for Fundamental Rights (FRA) of September 2015, which presented a model for calculation of costs



in the event of hypertension and prenatal care of migrants using the example of three countries. Their analysis shows that availability of preventive healthcare contributes to better health condition of patients, but also contributes to savings when compared to the provision of emergency medical assistance only.

Conduct of police officers

On average, 400 police officers worked with refugees at points of entry, in the camp and on transfers in 12-hour shifts every day. They had orders not to use force. Despite numerous challenges and pressure, weather conditions, and a large number of people who passed

The conduct of police officers towards refugees was professional and humane and it was particularly sensitized towards vulnerable groups.

through the territory of the Republic of Croatia, there were no incidents involving the police. In our visits to all key points of movement, including night-time visits, we did not see any conduct that would count as human rights violations. The conduct of police officers towards refugees was professional and humane and particularly sensitized towards vulnerable groups. Along with the performance of their regular duties, police officers handed out blankets and clothing, helped women and children board and get off buses and trains, and they cooperated with volunteers and civil

society organizations that still reported about harsh and verbally inappropriate conduct of police officers towards refugees on several occasions, but we have not received confirmation of such conduct.

Serious incidents among refugees themselves were not recorded, and the means of coercion were used twice. In one case, pepper spray was used to protect children from pushing and shoving in the crowd, and in the other case, physical force and binding aids to prevent a person from jumping off of a train.

Availability of information

One of the biggest problems at the very beginning of the refugee crisis related to insufficient and delayed information to refugees and the stakeholders involved, including police officers, representatives of associations and international organizations, volunteers, about the place the refugees were located, the expected duration of stay and the care provided. That is why there was dissatisfaction and frustration, but also minor protests, the making of noise, etc.

In the first few days this was particularly visible at the railway station in Tovarnik, because of the lack of interpreters, among other things, and a special problem was that refugees were not informed about the right to request international protection. Although it is impossible to provide all information about all relevant issues, it was still noted that there was significant improvement after the opening of Opatovac Camp. Representatives of civil society organizations and international organizations provided all relevant information in everyday direct contacts with refugees, including how it was possible to submit applications for



international protection. However, it was still known to happen that there was no information available about the arrival of a train or bus or about the distribution of clothing.

After the opening of the Transit Centre in SB, the organization improved and so did the provision of information, especially following the placement of a video wall with information concerning the obligation of registration, the possibility of requesting international protection, reception, organization and services in the Centre, in Arabic, Farsi and Urdu. Interpreters also helped with information, especially concerning getting on/off means of transport, and some of these interpreters were even persons whose international protection in the Republic of Croatia had been approved, which demonstrates their positive contribution to the refugee crisis and society as a whole. According to available information, some of them were offered the opportunity to acquire Croatian nationality under preferential criteria on the basis of an evaluation of the Ministry of Interior that this was in the interest of the Republic of Croatia.

Separated families

Considering that refugees often travel in large groups or families, they would become separated along the way due to various circumstances, mostly because they could not board the same train or bus. In the first few days, there were several complaints about the impossibility of finding family members, that is, a lack of information about how to find family members. Family reunification was within the competence of the search service of the National Office of the Tracing Service of CRC, so a special tent was set up in Opatovac Camp.

After the opening of the Transit Centre in SB, the problem of separated families was resolved to a considerable extent, because in the event of separation at the time of arrival at the Centre (for example, for a visit to the doctor), a temporary waiting room for other members of the family was set up in the registration section, as well as special containers for those waiting for someone taken to the doctor. At the time of leaving the section and departure for a day-care facility, each person was registered separately, so that his/her whereabouts were known at all times. In the event of separation during their journey, a special tent in the Transit Centre in SB intended for persons waiting for other family members was set up, so that they could get on a train together and continue their journey, with the assistance of the CRC. Further, a mobile application for finding family members was also introduced.

Vulnerable groups

During the visits, we paid special attention to the treatment of vulnerable groups: families, unaccompanied minors, people with disability, and the elderly. In the first days of the crisis, at the time of boarding a train at the railway station in Tovarnik, there was pushing and shoving of women and children as stronger men pushed their way to the front, while some of them entered the train through the windows. However, the very next day the boarding was much better and vulnerable groups received the attention that was due to them. In Opatovac Camp, a special section was organized for families with children that had heated containers.



However, they could hold only a small number of persons, and families often rejected such accommodation for fear of separation. Further, considering that refugees could not move between sections on their own, and there were not enough volunteers to find mothers with small children in order to take them to heated containers, sometimes they would wait for a bus in the cold and rain in unheated tents. The systematic separation of vulnerable groups was not organized at the time of boarding of buses, so police officers brought vulnerable groups to the front only if they saw them.

Systematic exclusion of vulnerable groups was not organized at the time of boarding of buses, so police officers brought vulnerable groups to the first row only if they saw them.

UNICEF organized a play area for children, as well as psychosocial support and counselling for mothers with small children, and provided them with hygiene packages and children's clothes. In the beginning, there were no toilets for people with disability in Opatovac Camp, but that was resolved later. Further, wheelchairs were provided at the border crossing of Bapska, so that people with mobility problems and people with disability could be taken from the border to the bus, in agreement with Croatian and Serbian police officers and with support of UNHCR.

The Transit Centre in SB was completely adapted for the accommodation of vulnerable groups (special containers for mothers and babies, toilets for people with disability, wheelchairs, etc.). At the time of registration, families with small children, pregnant women and people with disability generally had priority.

Cases of children who were separated from their families during the journey were recorded, and so were cases of children who had decided to take the journey on their own, so Ministry of Social Policy and Youth staff were assigned to both camps to ensure the immediate appointment of special guardians and accommodation in an appropriate institution until reunification with parents or relatives.

Transport of refugees and the situation at the border crossings

In the first days of the arrival of refugees, when there was still no agreement on transit with the neighbouring states, transport was not fully organized, so certain groups travelled at their own cost. At the same time, in Tovarnik, several hundred metres from the railway station, several hundred, even thousands people waited throughout the night or for hours in the sun to board buses.

After the opening of Opatovac Camp, free transport by bus and train was organized to the Hungarian border. At the Botovo border crossing, the organization was excellent, and police officers, medical teams, interpreters and volunteers made sure that transport was as humane as possible, without jeopardizing the safety/security of refugees and Croatian citizens. Many people refused medical assistance and hospital treatment, although they needed it, because they wanted to continue their journey as soon as possible.



After the closing of the Hungarian border and re-routing towards Slovenia, the media broadcasted a video of refugees crossing the border by walking through the cold River Sutla. According to an official report of the Ministry of Interior, in the said period refugees were arriving in an organized manner by train at the railway station in the locality of Sutla, crossing the bridge across the River Sutla and walking towards the state border and onwards to the macadam road, where after 300 metres they would enter the territory of Slovenia. Thus, in the territory of the Republic of Croatia they crossed the Sutla by using a concrete bridge, while the crossing through the river was at the old river bed which is in the territory of Slovenia.

At Botovo border crossing, the organization was excellent, and police officers, medical teams, interpreters and volunteers made sure that transport was as humane as possible, without any jeopardy in terms of the safety/security of refugees and Croatian citizens.

Several days after Hungary closed the border, the situation was still very difficult. At the Bapska crossing, people stood in the rain or lay in the mud the whole night, they were cold and completely exhausted.

After the opening of the Transit Centre in SB and an agreement with the Slovenian and Serbian authorities, transport proceeded quickly and without difficulties. The reception of refugees was organized in Šid, where Croatian police officers examined documents and the boarding of the train, and after registration in Slavonski Brod, the refugees would continue their journey towards Dobova. In December, trains were not heated, although temperatures were low, but the problem was fixed relatively soon; according to certain information, there were situations where toilets were locked during the train ride. As opposed to other countries on the refugee route, the Republic of Croatia covered all expenses of the transport of refugees on its own, which is extremely positive.

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Cooperation with stakeholders

The refugee crisis was managed by the Ministry of the Interior in cooperation with the National Protection and Rescue Directorate (NPR), Ministry of Health, Ministry of Defence as well as Ministry of Social Policy and Youth. In addition, numerous national and international organizations were active in the field: Croatian Red Cross, Magna, UNHCR, UNICEF, Centre for Peace Studies, Jesuit Refugee Service, Croatian Law Centre, RODA, Save the Children, Doctors Without Borders, Society for Psychosocial Assistance, Remar, Caritas, ADRA, International Organization for Migration, Samaritan's Purse, Alliance of Baptist Churches, Youth Peace Group Danube, Full Gospel Church, Information Legal Centre Slavonski Brod, Volunteer Centre Slavonski Brod and Volunteer Centre Osijek. There were around 70 workers or volunteers from the said organizations and associations working in one shift. Further, each shift had six interpreters for Arabic, Farsi and Urdu. Management and cooperation proceeded through



everyday meetings of all involved state bodies and the CRC, under the leadership of the NPR, and meetings of the coordinating committee with the associations, in the beginning under the leadership of the CRC, later the Ministry of Interior.

More than 60 organizations, volunteers and individuals gathered in the Initiative for Support to Refugees entitled “Welcome” with the aim of providing support in the field, but also creating and applying political pressure on the institutions of the Republic of Croatia and the EU to bring changes to the restrictive migration policies. They provided humanitarian assistance, coordinated local organizations, informed refugees about the procedures of entry to and exit from Croatia on a daily basis, and they acted in co-ordination with the CRC, Coordinating Committee for Asylum and the competent institutions. They published a website welcome.cms.hr with updates and useful information for refugees, such as timetables or dictionaries. Numerous volunteers and groups of citizens were engaged deeply in the initiative “Are you Syrious” that collected and provided humanitarian assistance at all locations where refugees were located. The inhabitants of Bapska, Tovarnik, Harmica and other localities showed particular sensitivity and solidarity when they organized themselves to provide necessary humanitarian and medical assistance. The speed, openness and organization shown by the local population in approaching refugees helped to spread the wave of solidarity in the public at large and they represent an excellent example of the activity of members of our society in the protection of human rights as well as in reacting to events without any prejudice.

The inhabitants of Bapska, Tovarnik, Harmica and other localities showed particular sensitivity and solidarity when they self-organized to provide humanitarian and medical assistance that was needed.

6. LOCAL AND INTERNATIONAL COOPERATION AND PUBLIC ACTIVITIES AIMED AT HUMAN RIGHTS PROMOTION AND COMBATING DISCRIMINATION

6.1. COLLABORATION WITH STAKEHOLDERS

This year, we resumed our collaboration with different stakeholders, which is an important segment of the work performed at the institution. We would like to put a special emphasis on our collaboration with local stakeholders, as one of the crucial preconditions for better protection and promotion of human rights in the Republic of Croatia. The opening of regional offices in Osijek, Split and Rijeka not only allowed for local authorities to get to know the work, competences and powers of the Ombudswoman of the Republic of Croatia, but it also established a collaboration which is expected to intensify in the future. In addition, throughout 2015, we initiated meetings with attorneys, chiefs of different police administrations, county coordinating bodies for human rights, civil society organisations and other stakeholders active in the area of human rights protection and advocacy, as well as fight against discrimination. We



have realised successful collaborations with numerous state and independent bodies, as well as international organisations, within the context of which we must especially emphasise our collaboration with special ombudspersons as partner institutions within the framework of human rights protection and combating discrimination in the Republic of Croatia. The Ombudswoman's Council for Human Rights continued with its work and, in line with its role, enhanced pluralism, visibility and comprehensiveness of the work performed at the institution.

The Ombudswoman, her deputies and other Office employees participated in numerous conferences organised by civil society institutions and state bodies, at which, through their presentations, they presented the work of the Office and substantially contributed to the conclusions of these conferences. Although we do not give a detailed account of the mentioned conferences in the Report, information thereon is available on the official website of the Ombudswoman of the Republic of Croatia.

The Ombudswoman's Council for Human Rights

In 2015, the Council for Human Rights convened twice, as initially planned. The meetings of the Ombudswoman with the members of the Council form the basis of her collaboration with not only civil society but also the academic community, national minorities and the media and they represent an excellent opportunity for the participants to exchange their experiences within the domain of protecting and promoting of human rights. The first meeting was held at the beginning of June, on which occasion, among other things, the Annual Report of the Ombudswoman of the Republic of Croatia for 2014 was discussed. The second meeting was held in early December, on which occasion the Council members were informed about the activities of the Office with respect to refugee crisis. During the meeting, an agreement was reached on the manner in which Council members would engage in the process of drawing up of the Annual Report of the Ombudswoman of the Republic of Croatia for 2015.

In early November, following her decision to take up a new post, due to which she would no longer be able to represent civil society, Milana Romić resigned from her post as member of the Council for Human Rights. Consequently, a public invitation was issued for the application of candidates belonging to civil society for membership in the Council for Human Rights, for which ten applications were received. Based on the curricula vitae submitted by the applicants, the Ombudswoman of the Republic of Croatia appointed Mr. Ivan Novosel, from the Human Rights House, member of the Council for Human Rights.

Collaboration with Special Ombudspersons

As in previous years, collaboration with special ombudspersons encompassed both teamwork on different individual cases and the process of forwarding complaints, pursuant to the competences of ombuds institutions. During the course of the year, 129 complaints were forwarded to them to solve under their respective competence – 119 new complaints and 10 complaints from previous years.



On several occasions during the course of the year, the Ombudswoman of the Republic of Croatia met with different special ombudspersons not only to discuss burning issues and the question of actual collaboration within the framework of different domains, but also to make joint declarations to the media. Celebration of the Human Rights Day was yet another opportunity for us to develop our collaboration, which is explained in detail in the chapter on general initiatives.

Collaboration with Civil Society Organisations

In 2015, we continued to collaborate with different civil society organisations, among which are regional anti-discrimination contact points, by working on individual complaints, providing public information and organising joint projects. During the refugee crisis, we collaborated with a whole range of different civil society organisations on the ground, which is described in more detail in the part on the refugee crisis.

In addition, while preparing this Report, we consulted many civil society organisations engaged in combating discrimination and human rights protection and; as a result, some of the information they provided is included into the present Report.

6.2. INTERNATIONAL COOPERATION

Thanks to multiple functions: UN bodies-accredited independent national institution for human rights, central national body for eliminating discrimination and promoting equality, National Preventive Mechanism against torture and inhuman treatment, as well as her membership in different professional associations, in 2015, the Ombudswoman of the Republic of Croatia proceeded to encourage active international cooperation, through the exchange of information, participation in different forums, work in expert groups specialising in different fields, as well as through contribution to periodic reports drawn up by bodies responsible for monitoring the implementation of international treaties.

Reporting pursuant to international treaties

Following an invitation on the part of the United Nations Human Rights Committee, in February 2015, the Ombudswoman, in cooperation with special ombudspersons, submitted an independent report prior to the consideration of the third periodic report of the Republic of Croatia pursuant to the International Covenant on Civil and Political Rights. In late April 2015, in its Concluding Observations, the Human Rights Committee warned about a number of deficiencies, which we also pointed out in our independent report: discrimination against the Roma, equal usage of languages and scripts of national minorities, identification and prosecution of hate crimes and open questions regarding the return of all displaced persons and their access to adequate housing.



Apart from their obligation to deliver independent reports to different UN boards that monitor the implementation of specific international conventions, the most important role of the accredited national institutions for human rights is their obligation to actively participate in the process of the Universal Periodic Review of the human rights situation (UPR). The Ombudswoman of the Republic of Croatia, in cooperation with special ombudspersons, participated in the second cycle of the Universal Periodic Review and at its plenary session, the United Nations Human Rights Council adopted 167 recommendations for the Republic of Croatia. The majority of the mentioned recommendations focuses on the need to fulfil the obligations assumed in the first UPR cycle, with a special emphasis on the ratification of the remaining key international human rights treaties, realisation of social and economic rights, poverty reduction, protection of the rights of national minorities, combating discrimination and providing support for the most vulnerable groups. On that occasion, the Government of the Republic of Croatia did not accept only five recommendations, and it undertook to conduct broad consultations with local stakeholders, as well as to deliver a mid-term report on the follow-up of the said recommendations.

It was decided that the Ombudswoman of the Republic of Croatia would take over the position of the Chair of the European Network of National Human Rights Institutions (ENNHRI) in March 2016.

The reporting dynamics of the Croatian Government is still considerably impeded, something which has been re-emphasised within the framework of the UPR mechanism during its second cycle. Furthermore, the competences of certain state bodies within the process of reporting pursuant to international treaties have not been clearly defined. In addition, the Republic of Croatia has not yet delivered neither the second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights, which has been due since June 30, 2006, nor the ninth and tenth periodic reports to the Committee on the Elimination of Racial Discrimination, which have been due since October 12, 2011.

What is more, Croatia has not yet ratified either the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights or the Revised European Social Charter, despite the fact that the two documents provide citizens with additional possibilities regarding the protection of their rights, especially the ones that are menaced by the economic crisis.

Participation in international forums

The efforts that the Office of the Ombudswoman had invested in the protection and promotion of human rights received recognition on the international level in December 2015, when it was decided that the Ombudswoman of the Republic of Croatia would take over the position of the Chair of the European Network of National Human Rights Institutions (ENNHRI) in March 2016.

The Ombudswoman of the Republic of Croatia acted as representative of the United Nations International Coordinating Committee of National Human Rights Institutions at the Asia-Europe



Meeting Conference on Global Ageing and Human Rights of Older Persons, held in late October in Seoul. In 2015, as member of the Management Board of the European Union Agency for Fundamental Rights, she contributed to the management work of the Agency and participated in professional meetings dealing with the dominant human rights topics in the EU, especially those with a focus on the refugee crisis.

Throughout the year, we pursued to develop our collaboration with partner EU institutions, especially with the Austrian Ombudsman Board (AOB), which also runs the General Secretariat of the International Ombudsman Institute (IOI), as well as with the Ombudswoman of the Republic of Slovenia. We shared our knowledge and experiences regarding the organisation and work of an ombuds office, helped the establishment of the institution of Ombudsman in Turkmenistan and supported the strengthening of the political capacity of the institution of the Ombudsman of the Republic of Turkey.

When it comes to our efforts aimed at combating discrimination, in 2015, we continued our close collaboration with the European Network of Equality Bodies (EQUINET). The representatives of the Office actively participated in the activities of the EQUINET working groups aimed at different thematic areas (the right to equality, strategic litigation, communication), while the Deputy Ombudswoman was appointed moderator of its Working Group Policy Formation. Furthermore, Office representatives participated in conferences, seminars, as well as in the Annual General Meeting of the EQUINET General Assembly, took part in research projects and contributed to different EQUINET publications.

RECOMMENDATIONS:

159. To the Croatian Government: to deliver periodic reports to the UN Committee on International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination, and to adopt a decision appointing a coordination body for compliance with reporting obligations under various Conventions;
160. To the Croatian Government: to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Revised European Social Charter.



7. HUMAN RESOURCES, ORGANIZATION OF WORK AND THE OFFICE BUDGET

Internal Organization of the Office and its Work

In 2015 the Office of the Ombudswoman was managed by the Ombudswoman and three Deputy Ombudspersons overseeing the work of five departments. As of 31 December 2015 the Office employed the total of 47 persons.

In the course of the past two years the Office's work was organized with three aims in mind: the strengthening of the capacities necessary for the performance of all of our mandates, the establishment of a network of regional offices with a view of becoming more accessible to the citizens and the introduction of a new IT system to more effectively manage the files and the work processes. In this period 12 officers were employed, 8 of which were transfers from other state institutions. Out of the 43 officers and other employees, 36 completed university study programs, 2 professional programs and 5 secondary education. In July 2015 four persons completed their on-the-job training at the Office and 11 new were admitted, three of which to the regional offices.

Following the opening of the Rijeka and Osijek branch offices in 2014, in 2015 the third commenced its work in the city of Split and currently employs two advisors. The opening of the Split office marked the end of the project aimed at establishing a network of branch offices in the regional centers, making them operational and connecting them with the central office in Zagreb.

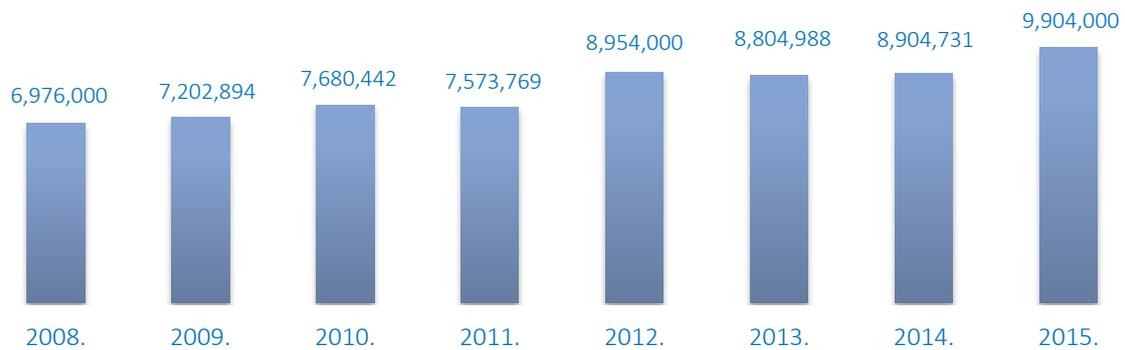
In the course of 2015 a new file management system was established as well. The process required the installation of a new application, the purchase of new IT equipment as well as the changes in the internal documents and the Office's work processes.

The Budget of the Office

In addition to the traditional ombudsman competences, the Office of the Ombudswoman performs the mandates of the central equality body, the National Preventive Mechanism and carries out human rights protection and promotion activities in line with its status A mandate. For a long period of time the budgetary funds allocated for the Office's work were not sufficient for the financial coverage of all of its mandates and activities. In the 2015 budget more funds were earmarked for the purpose, thus fulfilling one of the basic preconditions for the normal functioning of the Office. It is crucial that this level of funding be maintained in 2016 as well as in the budgetary projections for the 2017-2018 period. In the event of any normative changes adding new mandates to the institution's existing ones, adequate funds need to be allocated, in line with the requirements set by the UN's Paris Principles Relating to the Status of National Institutions.



The budget of the Office of the Ombudswoman 2008-2015



The Office's total expenditures in 2015 amounted to HRK 9 717 843.47 or 97.76% of the planned amount. Expenditures for the personnel expenses reached 97.28% of the planned amount, expenditures for the material expenses 99.16% and those for the intangible assets 100%.



8. CONCLUSION

In 2015 the Office of the Ombudswoman worked on 4.655 cases – 13% more than the year before and 80% more than in 2012, which can be attributed to better accessibility of the Office to the citizens. The data and the analyses presented in this report as well as the available information on the implementation of the Ombudswoman's recommendations indicate that a greater amount of effort needs to be invested by all government and administrative bodies at all levels to effectively prevent violations of human rights and discrimination.

Continuing the trend from the previous years, the highest proportion of the citizens' complaints received in 2015 pertained to the area of justice. The citizens were predominantly dissatisfied with court decisions and the long duration of the court proceedings. Additionally, in all of the areas falling under the Ombudswoman's mandates in their complaints the citizens communicated their distrust of the government institutions and a belief that they were not being treated equally before the law.

The issues faced by the vulnerable social groups are additionally exacerbated by the protracted unfavorable economic situation in the country. The introduction of the guaranteed minimum benefit did not improve the social situation of the persons unable to work, the unemployed nor the single parents and their families. Large numbers of the elderly persons live in inappropriate conditions, unable to meet their most basic needs and without the adequate level of care. They often fall victims to discrimination and are excluded from the state's social housing plans and programs. The employed citizens fear job loss, whereas the unemployed ones encounter significant difficulties in finding employment – a situation reflected in the fact that the highest proportion of the discrimination complaints we received in the course of the previous year pertained to the areas of work and employment.

The level of accessibility of municipal services in the rural areas is inadequate, which has an especially negative effect on the most vulnerable social groups and contributes to their social exclusion. This element ought to be one of the performance indicators in the announced public administration reform. In working to increase the accessibility of these services the central and the local government bodies need to engage in mutual cooperation and work together with the EU and the international stakeholders to devise innovative solutions.

The complaints submitted by the Croatian Homeland War veterans indicate that the support they are receiving is not adjusted to their actual needs and ought to be stepped up. The veterans often have an impression that the society at large views them as a burden. Furthermore, the data we collected show that, along with women and young persons, the veterans are one of the groups whose proportion in the homeless population is growing.

In 2015 the number of discrimination complaints received increased slightly in comparison with the previous years. However, the level of public awareness of what discrimination is and which protection mechanisms are available to the citizens is still too low. Thus, in order to further



improve the effectiveness of the anti-discrimination mechanisms, the experts, those implementing the laws as well as the employees of institutions and CSOs need to be continually educated on the topic.

Minority members continue to face prejudice, stereotypes and intolerance. One in every four discrimination complaints we received in 2015 pertained to discrimination on the grounds of race, ethnicity, skin color or national origin, often directed at the members of the Serb and the Roma minorities. Taking these figures into account as well as the insufficiently developed case law in the area of discrimination, the notable intensification of unacceptable public speech during the election period and the expressions of intolerance prompted by the refugee crisis, it is important that both the police and the judiciary implement in a regular and a more consistent manner their mandates in the field of prevention and sanctioning of hate speech and hate crimes.

The number of complaints pertaining to discrimination on the grounds of age, submitted by both the senior as well as the young members of the population, is on the rise as well. These are followed by complaints indicating discrimination on the grounds of one's health condition, education, political conviction and religion. The overview of the incidence of discrimination provided in this report includes the data on the complaints received by the special ombuds. The ombuds institutions work together on individual cases when required and in line with the Agreement on Mutual Cooperation, with the aim of enhancing the level of protection of the vulnerable social groups.

The violations of the rights of the persons deprived of their liberty still derive to the largest extent from the deficiencies in the normative framework and from the lack of the necessary resources. The complaints submitted to the Ombudswoman by these individuals mainly pertained to the quality and the accessibility of health care within the prison system. Due to the manner in which its provision is organized, it does not meet the required standards. Thus, it needs to be transferred from the competence of the Ministry of Justice into the public health system. The visits performed in 2015 by the National Preventive Mechanism indicate that the accommodation conditions in most of the police stations and detention units deviate from the international and the national legal standards. A certain number of the persons hospitalized in psychiatric institutions on an involuntary basis are forced to participate in their treatment and accommodation costs. This practice needs to be changed and the entire amount of costs should be covered by the state budget.

In September 2015 the refugee crisis reached Croatia, but the transit of more than 550.000 refugees did not have a significant impact on the everyday lives and the safety of its citizens. In the following months the refugees were generally provided with the access to international protection, free transport, health care, accommodation and the basic amenities. Such an approach aimed in equal measure to secure the respect for the human rights and freedoms of the refugees, to implement the solidarity principle as well as to protect the national interests.



With a view of enhancing the level of human rights protection and promotion and the effectiveness of the anti-discrimination efforts and mechanisms, in the course of the past year the Office of the Ombudswoman worked to further develop its cooperation with numerous stakeholders on both the national as well as the international levels. At the local level, this process was facilitated by the work of our regional offices. Nationally, we engaged in cooperation with various government and independent bodies, including the special ombuds, as well as CSOs, whereas the efforts at the international level resulted in the election of the Ombudswoman of the Republic of Croatia to the position of the Chair of the European Network of National Human Rights Institutions.



LIST OF ABBREVIATIONS:

ECtHR - European Court of Human Rights

CBA - Croatian Bar Association

AULSNM - Act on the Use of the Languages and Scripts of National Minorities

CARNM - Constitutional Act on the Rights of National Minorities

EMC - Electronic Media Council

SORHC - State Office for Reconstruction and Housing Care

AASSC - Act on Areas of Special State Concern

BH - Bosnia and Herzegovina

RA - Residence Act

PICA - Personal Identity Cards Act

ECHR - (European) Convention for the Protection of Human Rights and Fundamental Freedoms

AA - Aliens Act

APST - Act on the Provision of Services in Tourism

GMB - Guaranteed Minimum Benefit

COA - Civil Obligations Act

SWA - Social Welfare Act

CPII - Croatian Pension Insurance Institute's

PIA - Pension Insurance Act

EA - Energy Act

SWMA - Sustainable Waste Management Act

CNB - Croatian National Bank

MVA - Ministry of the Veterans' Affairs

APDVCDW - Act on the Protection of the Disabled Veterans and of the Civilians Disabled in the War

HCA - Health Care Act

CHIA - Compulsory Health Insurance Act

CNC - Croatian Nursing Council

ASHE - Act on Science and Higher Education

SAO - State Attorney's Office



ALA - Apartment Lease Act

MCPP - Ministry of Construction and Physical Planning

APRICB - act on the Procedures Regarding Illegally Constructed Buildings

SPMA - State Property Management Administration

DSA - Data Secrecy Act

COPSD - Central Office of the Prison System Directorate with the Ministry of Justice

EPSA - Execution of Prison Sentence Act

CPA - Criminal Procedure Act

CPT - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

APPMD - Act on Protection of Persons with Mental Disorders

CAT - United Nations Committee Against Torture

AITP - Act on International and Temporary Protection

CRC - Croatian Red Cross



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