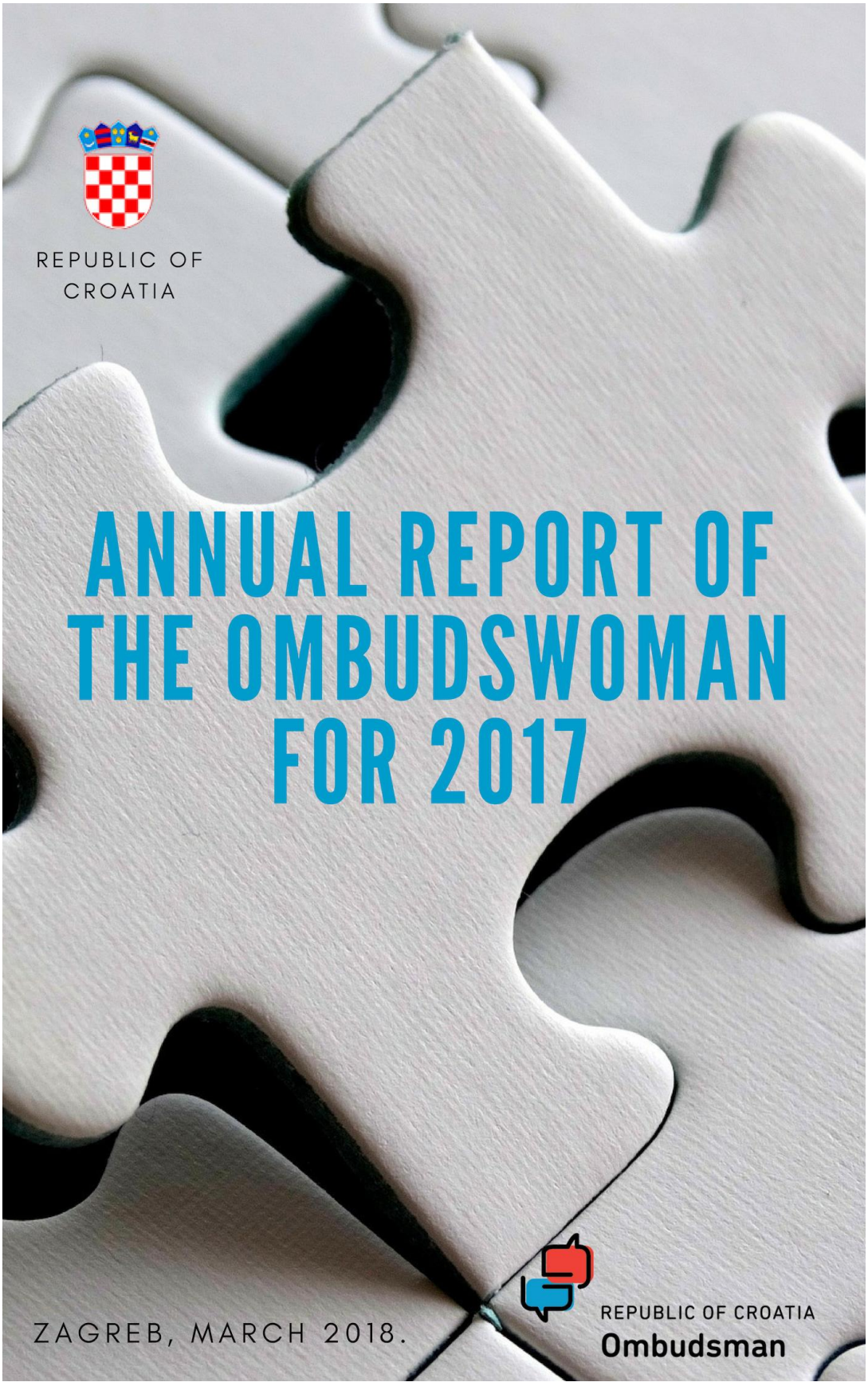

REPUBLIC OF
CROATIA
ANNUAL REPORT OF
THE OMBUDSWOMAN
FOR 2017
ZAGREB, MARCH 2018.
REPUBLIC OF CROATIA
Ombudsman

All human beings are born free and equal in dignity and rigths.

70 YEARS OF THE UN UNIVERSAL DECLARATION OF HUMAN RIGHTS

Content

1. INTRODUCTION

The 2017 Annual Report of the Ombudswoman has been prepared in accordance with the Ombudsman Act, the Anti-Discrimination Act and the National Preventive Mechanism Act, and provides an analysis and assessment of the situation with regard to the protection of rights and freedoms, including certain occurrences of violations of the rights of individuals or social groups, as well as 231 recommendations intended to introduce systematic changes to prevent violations of citizens' rights. The Report also contains assessment of the degree in which, according to information available to us, the competent bodies have implemented our earlier recommendations. The reasoned consideration and implementation of recommendations indicates the level of democratic maturity of decision makers and institutions, and their commitment to the rule of law, at the same time being one of the ways for long-term improvement of the quality of life in Croatia. This is particularly important to stress in the context of the worrying trend of population decrease.

Unfortunately, the potential that raising the level of human rights protection and suppressing discrimination have in demographic renewal and stopping emigration is still not adequately recognised by decision makers, on all levels. Citizens continue to face nearly identical obstacles in exercising the guaranteed rights, as in the previous years. This is demonstrated by data in this Report, based on citizens' complaints, field work throughout the country, relevant surveys, and information provided by several hundred stakeholders: public authorities, judicial bodies, civil society organisations, trade unions, professional and religious associations, academia, and many others.

As much as one fifth of Croatia's population lives at a risk of poverty, which is much more prevalent in rural areas, significantly contributing to depopulation, in combination with very weak economic activity and the unavailability of basic public services. Social benefits do not suffice to meet the basic needs in life, and older persons still living in adverse conditions are particularly vulnerable in this situation. However, there are some encouraging changes in the area of their protection from domestic violence or economic abuse, including the proposed introduction of the social pension. The enforcement system is still inefficient and unfair, continuing to generate additional debt to debtors and making it harder for creditors to collect the debt.

Regardless of their financial situation, numerous complaints and data provided show that citizens do not have enough information about their rights, because of which they fail to initiate protective mechanisms, with the lack of trust of institutions playing a significant role in this vicious circle, as corroborated by the complaints and surveys. This is related to the lengthiness of procedures, which, though typically mentioned in connection with judicial proceedings, is also present in other areas, such as the work of inspectorates or issuing decisions on pensions. Numerous situations point to unequal access to rights, for instance to justice or with regard to ever-growing waiting lists for health care services, especially in the case of impoverished citizens. Another reason for concern is the failure to adopt important regulations and strategic documents, for example on social housing, work of agencies for the collection of payments, homelessness, or civil society development, as well as the National Programme for Protection and Promotion of Human Rights, which expired in 2016. Among them is the Environmental Protection Plan, too, indispensable in a situation where, inter alia, there is no model for systematic monitoring of possible effects of air pollution or unhealthy water on human

health. On the other hand, some of the existing regulations are not enforced. For instance, deadlines for carrying out the call for applications in the free legal aid system were disregarded multiple times, while some big cities and county seats fail to finance soup kitchens or homeless shelters. More effort needs to be invested in training persons whose task is to protect the rights or inform citizens about them: state and civil servants, social workers and police officers, judges, state attorneys and others. We continued to participate in the trainings, particularly in relation to suppressing discrimination.

In addition, particularly concerning is the precarious status of the employed, which, although directly connected to the economic situation, can be significantly improved, such as by considering the regulation of fixed-term work contracts, improving inspection work and increasing transparency in employment. Currently, many employees are forced to choose between putting up with rights violations, losing their jobs or leaving the country. The number of complaints is indicative of this, as for the first time the most were related to violations of the rights in employment and civil service relations, with labour and employment being the most common discrimination area. Young people entering the labour market are in unenviable situation, as well, often in relation to education or material status, while some employers consider even 40-year-olds as being too old.

However, as in the previous years, discrimination on the grounds of ethnicity was the most prevalent. Many Roma remain in ghettoised communities lacking basic infrastructure, in abject poverty and with hindered access to education, and later to employment. There is still no comprehensive policy for the integration of foreigners, in particular those seeking international protection, with their integration in the society made difficult at the very first step, with the lack of Croatian language courses. There is a higher degree of social distance and prejudice, even hatred, towards members of the Serb national minority, having as a consequence public expressions of intolerance. Unfortunately, the public discourse remained characterised by intolerance of various groups and ideas in 2017. The lack of dialogue and reasoned discussions, as well as of appropriate and timely public condemnation of unacceptable content, contribute to the atmosphere of apathy and feeling of stagnation in the society.

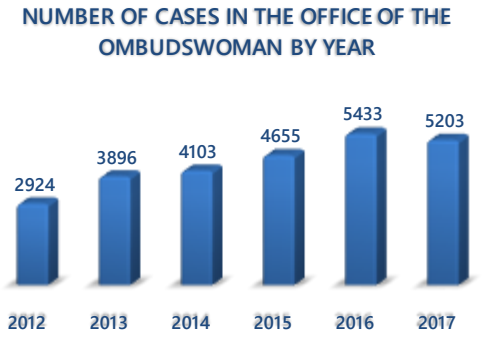
The National Preventive Mechanism noted some positive steps, but no significant major systemic improvements were recorded in 2017. The problem of access to health care of prisoners and the conditions of their accommodation persists, with still no civil supervision established in the police system. The practices including degrading treatment remain, for instance in psychiatric institutions, with a notable shortage of staff present in homes for the elderly and infirm. The police still fails to provide arguments in cases of conduct towards irregular migrants, with no relevant investigation carried out, and no appropriate positions provided to us.

A two-day conference held under the auspices of the Croatian Parliament marked the 25th anniversary of the adoption of the Ombudsman Act, attended by top international officials in the field of human rights, as well as numerous national stakeholders. We continued with intensive international cooperation, representing an exceptionally useful source of experience for improving our activities, and a platform for the transfer of good practice to institutions abroad. Finally, after the Ombudswoman had been elected ENNHRI Chair in 2015, we are particularly proud her deputy was elected as the Chair of EQUINET in 2017. As a result, our institution will preside over the two most important networks in the field of human rights and discrimination in Europe in the upcoming period.

2. STATISTICAL DATA FOR 2017

2.1. DATA ON THE ACTIVITIES OF THE OFFICE

In 2017, the Office of the Ombudswoman acted on the total of 5203 cases, of which 3793, or 72.9%, were related to violations of rights reported by the citizens or those that we identified ourselves and started the proceedings on our own initiative. Further 23,8%, or 1240 cases, were related to general initiatives that the Office was included in, while the remaining 3.3%, or 170 cases, were initiated as part of regular office work. Although the total number of cases dropped slightly in relation to 2016 (by 4.2%), this figure is still high, as shown in the comparative chart since 2012.



CASES OPENED IN 2017 BY TOPIC/LEGAL AREA

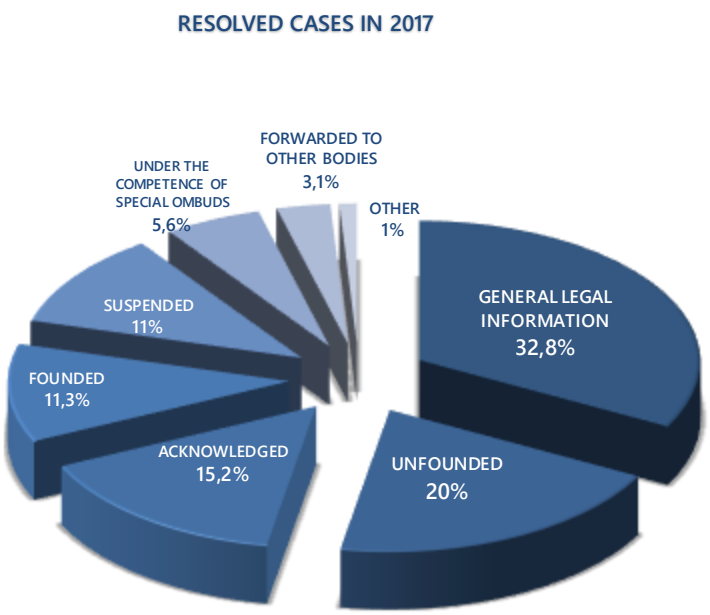
AREA	NO. OF CASES
Labour and civil service relations	301
Justice	297
Discrimination	277
Health care	230
Persons deprived of liberty	178
Police and security services	148
Property relations	131
Social welfare	116
Enforcements	111
Pension insurance	107
Status-related rights	83
Utility services	77
Family law	75
Finances	74
Construction and physical planning	55
Reconstruction and housing care	53
Environmental protection	52
Rights of war veterans and their families	41
Education and science	27
Other complaints	100
Complaints total	2533
General initiatives	804
National preventive mechanism	52
Total	3389

Out of the total number of cases in which we acted on the grounds of violations of rights, 2533 were opened in 2017 (66.8%), while 1260 had been initiated in earlier years, but due to their complexity the proceedings were still ongoing in 2017. In addition, 856 (69%) general initiatives were started in 2017, compared to 384 (31%) in the previous years. Thus, in 32% of the cases work began in the previous years, but due to their complexity acting upon them requires a longer involvement.

A statistical overview of the newly-received complaints by the area shows that the most complaints in 2017 were filed for violations in the areas of labour and civil service relations, followed by the judiciary and discrimination. These areas had the most complaints in the three previous years, as well, each accounting for approximately 10% of the total number of complaints. In 2015, the number one area of complaints was the judiciary, followed by labour and civil service relations and discrimination; in 2016, discrimination took the lead, followed by the judiciary and labour and civil service relations; while in 2017, for the first time the area of labour and civil service relations topped the number of complaints (11.8%), followed by the judiciary (11.7%) and discrimination (10.9%).

In addition, complaints are frequently received in the areas of health care (9%), prison system (7%), police conduct (5.8%) and property relations (5.1%). Citizens also complained about social welfare, enforcements, irregularities in the area of construction, physical planning and environmental protection, and in pension insurance. As for other areas, there were fewer complaints, which does not necessarily mean that there were no considerable problems and irregularities in them.

The most complaints were filed by physical persons (89%), followed by civil society organisations (2.5%) and legal persons with public authority (1.9%) acting on behalf of citizens, and less frequently by other complainants (1.6%). In 2.2% of the cases we initiated the proceedings on our own initiative, whereas in 1.8% of the cases the complaints were filed by individuals or groups wishing to remain anonymous.



By territorial representation, the most complaints received were from the City of Zagreb, followed by those from the Split-Dalmatia, Primorje-Gorski Kotar and Osijek-Baranja counties. Just like in the previous few years, the most complaints were filed in those areas of Croatia where regional offices are located. More often, complaints came from the Varaždin, Sisak-Moslavina and Istria Counties, with citizens from other countries contacting us less. Still, there in not a single county from which at least 10 complaints were not received.

Out of the total of 3793 cases based on individual complaints that we acted upon in 2017, 2803 were resolved, with proceedings still underway in 2018 for 990 of them. Rights' violations or discrimination were found in 11.3% of the resolved cases, in 32.8% of the cases citizens were provided with general legal information, 20% of the complaints were unfounded, 15.2% were acknowledged, in 11% the procedures were suspended, 5.6% of the cases were determined to be under the competence of the special ombuds institutions, and 3.1% of the cases were forwarded to other bodies. Out of the total of 1240 cases opened following general initiatives, 820 were resolved, while procedures are still ongoing in 420 of them.

Citizens often contact us in relation to problems outside the competences of our institution and ask for free legal aid, which we are not allowed to provide. We therefore refer them, after they present their problems, to other bodies they should contact, and clarify the legal and institutional options at their disposal.

Cooperation with competent bodies

Competent bodies are obliged to provide data and opinions on request of the Ombudswoman, making the mutual cooperation crucial for the success of our procedures. Although they normally respond within the stipulated deadlines, some bodies failed to do it regularly in 2017, such as the Ministry of State Property (MSP), Ministry of Finance (MF), Ministry of Health (MH), Croatian State Archives, the cities of Delnice, Nin and Našice, and the municipalities of Župa Dubrovačka and Sveti Filip i Jakov. In addition, urgency notes had to be sent to the Ministry of Construction and Physical Planning (MCPP) several times, and we informed the Government of the RC of their failure to act. The University of Zagreb does not respect its legal obligation to provide information and opinions at all. All public authorities have provided information requested for this report except the MF. On the other hand, the answers we receive are sometimes incomplete and inadequate, despite the specific questions we send to ask for opinions.

As for the implementation of recommendations from the previous reports, a more detailed assessment is given in the particular chapters. According to the information we possess, competent bodies have acted or are acting on 40% of recommendations from the 2016 report, have not taken 57% into consideration, while we have no information about the remaining 3%. If these data are compared with those from the 2015 report, which the Croatian Parliament did not accept, when competent bodies only acted upon 28.75% of the recommendation, the importance of the support of the Croatian Parliament to implementing systemic reforms in area of the protection of human rights and combating discrimination is obvious.

Besides, the Office for Human Rights and Rights of National Minorities (OHRRNM) is in charge of systematic monitoring of the implementation of recommendations from the Ombudswoman's report. However, the latest report on the activities taken with regard to recommendations from the Ombudswoman's report, which the Government of the RC adopted in 2015, was for 2013. This competence of the OHRRNM was an obligation of the RC taken during the pre-accession negotiations with the EU, as a condition for closing Chapter 23, and is undoubtedly a very important mechanism aimed at strengthening the protection and promotion of human rights in the RC. To ensure the implementation of this mechanism, the Regulation on the then Office for Human Rights was amended, and the present Regulation on the OHRRNM stipulates monitoring the implementation of recommendations from the Ombudsman's annual reports. It is therefore necessary for the OHRRNM to keep doing it, in line with the obligations taken.

Activities of the regional offices

Apart from the city of Zagreb, we receive the most complaints from the parts of Croatia where there are regional offices of the Ombudswoman.

370 citizens contacted the Rijeka office by phone, and about 300 in person. In many cases, they were dissatisfied with the work of the judiciary, and asked for legal aid. As regards the Ombudswoman's competences,

Apart from the City of Zagreb, we receive the most complaints from the parts of Croatia where there are regional offices of the Ombudswoman. More often, complaints came from the Varaždin, Sisak-Moslavina and Istria Counties, with citizens from other countries contacting us less. Still, there in not a single county from which at least 10 complaints were not received.

they most commonly complained about activities of social welfare centres, police conduct and discrimination in employment. The complaints mainly came from the city of Rijeka and the surrounding cities and municipalities. The regional office cooperated with the Rijeka Faculty of Law during the year, participating in conferences and lectures for students. The cooperation with the Roma National Minority Council of the Primorje-Gorski Kotar County continued, through working on cases and visiting Roma communities.

270 citizens visited the Osijek regional office in 2017, while 350 contacted it by phone, and 20 in writing. The complainants mainly came in person from Osijek and the immediate surroundings, but also from other parts of the Osijek-Baranja and the Vukovar-Srijem counties, while those from more remote Slavonian counties mostly contacted the office by phone or in writing. The most common complaints referred to the work of the judiciary and on enforcements, discrimination, war veterans' rights and police conduct, as well as protecting rights deriving from employment relations. In 2017, the Osijek regional office collaborated with civil society organisations (CSO) and national minority councils, with staff talking about discrimination and the possibilities for protection to members of the Roma national minority at four public panels.

The Split regional office was contacted by 542 citizens, with 290 coming in person and 252 asking for information of filing complaints by phone. The most citizens visiting the office were from the Split-Dalmatia County, and somewhat less from the Šibenik-Knin, the Zadar and the Dubrovnik-Neretva counties. As in the previous years, the most complaints referred to lengthy judicial proceedings, followed by exercising rights from the social, health and pension insurance, while a considerable number of complaints were related to police conduct and regulating the residence of foreign citizens. The Split regional office organised a round table on the police use of coercive means, with advisors conducting training for police officers of the Zadar Police Authority. As in the previous years, the regional office collaborated with CSOs, the academia and the media, and participated in public events organised on the territory of the three counties.

RECOMMENDATIONS:

1. To the Office for Human Rights and Rights of National Minorities, to prepare, and to the Government of the Republic of Croatia, to propose the adoption of the Report on activities taken with regard to recommendations from the Ombudswoman's reports;

2.2. STATISTICAL DATA ON THE OCCURENCES OF DISCRIMINATION

2.2.1. Office of the Ombudswoman data on complaints against discrimination

In 2017, the Ombudswoman acted on the total of 777 discrimination-related cases. Out of this, 527 were citizens' complaints and procedures opened on the initiative of the Ombudswoman, while 250 cases were opened based on general initiatives, such as participating in adopting regulations, training, cooperation with stakeholders etc. Of the 527 complaints, 250 were the ones we started working on in the previous years, and there were 277 new ones. Thus, roughly the same number of complaints

was filed in 2017 compared to the previous years, with the exception of 2016, where the most new discrimination-related procedures were initiated since the coming into effect of the Anti-Discrimination Act (ADA).

COMPLAINTS AGAINST DISCRIMINATION

In keeping with the trend of last several years, citizens most often report on discrimination in the areas of labour and employment. While the percentage of these complaints previously made a third of the total number, in 2017 it stood at as much as 40%. Similar to 2016, a little over one tenth of all received complaints were related to the area of public information and the media. Following are the areas of access to public goods and services (6.9%), social care (5.8%), education (5.4%), and public administration (5.4%). Discrimination occurs much less often in other areas, and in 6.5% of the cases citizens indicated no specific area, but rather complained of discrimination as a general phenomenon in the society.

A statistical overview of the complaints shows that race, ethnicity or skin colour, as well as national descent, remain the leading reasons for being put in a disadvantageous position, as indicated by 17% of the complainants. However, complaints about multiple discrimination (on multiple grounds) must be added to this figure, as religion or political and other conviction are stated in one fifth of them.

AREA OF DISCRIMINATION	NO. OF COMPLAINTS	%
Labour	70	25.3
Employment	43	15.5
Public information and the media	35	12.6
Access to goods and services	19	6.9
Social welfare	16	5.8
Education	15	5.4
Administration	15	5.4
The judiciary	10	3.6
Health care	8	2.9
Pension insurance	6	2.2
Housing	5	1.8
Sport	3	1.1
Membership in trade unions, CSOs, political parties	2	0.7
Cultural and artistic activity	2	0.7
Health insurance	2	0.7
Multiple areas	8	2.9
Discrimination – general	18	6.5
TOTAL	277	100

Complaints were also often received about unequal treatment based on age (11.9%), which citizens indicate as a reason for discrimination even when they complain on other grounds, as it was mentioned in one fourth of the complaints against multiple discrimination, often together with education. The Office also received complaints about discriminatory actions based on religion (6.1%), social status (5.4%) and education (5.4%). In keeping with the trend of last several years, citizens most often report on discrimination in the areas of labour and employment. While the percentage of these complaints previously made a third of the total number, in 2017 it stood at as much as 40%. Similar to 2016, a little over one tenth of all received complaints were related to the area of public information and the

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Cultural and artistic activity	2	0.7
Health insurance	2	0.7
Multiple areas	8	2.9
Discrimination – general	18	6.5
TOTAL	277	100

2.2.2. Consolidated Data of all Ombuds Institutions

In line with provisions of the ADA, along with the Office of the Ombudswoman, special ombuds institutions also keep records of discrimination-related cases under their competences and deliver them to the Office of the Ombudswoman, who consolidates them to provide a comprehensive overview of all discrimination complaints received by the ombuds institutions. These data are provided in the tables below, indicating the complaints where action was taken in accordance with the

ADA in 2017, segregated by the sex of the complainant, discrimination grounds and areas, and the body/person complained against.

COMPLAINTS UNDER THE ADA BY THE COMPLAINANT'S SEX IN 2017

COMPLAINANT'S SEX	OFFICE OF THE OMBUDSWOMAN	OMBUDSWOMAN FOR PERSONS WITH DISABILITIES	OMBUDSWOMAN FOR CHILDREN	OMBUDSWOMAN FOR GENDER EQUALITY
Female	92	27	4	251
Male	116	29	7	124
Unknown[1]	6	-	-	-
Group of individuals	68	1	8	28
Office's initiative	8	2	-	23
Total	290[2]	59	19	426

COMPLAINTS UNDER THE ADA BY DISCRIMINATION GROUNDS IN 2017

GROUNDS	OFFICE OF THE OMBUDSWOMAN	OMBUDSWOMAN FOR PERSONS WITH DISABILITIES	OMBUDSWOMAN FOR CHILDREN	OMBUDSWOMAN FOR GENDER EQUALITY
Marital or family status	3	-	1	13
Trade union membership	4	-	1	-
Age	33	-	1	-
Social status	15	-	1	-
Genetic heritage	5	-	1	-
Economic status	8	59	5	-
Disability	1	-	-	-
Language	15	-	-	-
Education	12	-	1	1
Political or other belief	47	-	3	-
Race, ethnicity or skin colour, national descent	1	-	-	18
Gender identity and expression	-	-	-	-
Social origin	18	-	-	367
Sex	3	-	-	16
Sexual orientation	17	-	2	1
Religion	9	-	-	1
Health condition	47	-	2	-
Multiple discrimination	39	-	1	9
No grounds under the ADA	277	59	19	426

[1] Anonymous complaint

[2] Number of complainants is higher than the number of complaints, as some complaints were jointly filed by several persons.

COMPLAINTS UNDER THE ADA BY THE AREA OF DISCRIMINATION IN 2017

AREA	OFFICE OF THE OMBUDSWOMAN	OMBUDWOSMAN FOR PERSONS WITH DISABILITIES	OMBUDWOSMAN FOR CHILDREN	OMBUDWOSMAN FOR GENDER EQUALITY
Membership in trade unions, NGOs, political parties	2	-	-	2
Public information and the media	35	2	-	36
Cultural and artistic creation	2	-	-	1
Education	15	15	14	23
Sports	3	-	1	1
Science	-	-	-	2
Justice	10	4	-	26
Public administration	15	-	-	77
Access to goods and services	19	9	1	11
Labour	70	10	-	69
Employment	43	2	-	26
Pension insurance	6	-	-	3
Social welfare	16	4	1	115
Health insurance	2	-	-	10
Housing	5	3	1	1
Health care	8	3	-	17
Multiple areas	8	-	-	-
Discrimination-general	18	7	1	6
Total	277	59	19	426

COMPLAINTS UNDER THE ADA BY THE BODY/PERSONS COMPLAINED AGAINST IN 2017

TYPE OF BODY/PERSON COMPLAINED AGAINST	OFFICE OF THE OMBUDWOSMAN	OMBUDWOSMAN FOR PERSONS WITH DISABILITIES	OMBUDWOSMAN FOR CHILDREN	OMBUDWOSMAN FOR GENDER EQUALITY
Physical person	47	-	-	21
Legal person	58	7	3	71
Legal person with public authority	16	34	12	166
State administration body	123	4	2	104
Judicial body	8	7	-	38
CSO	7	-	-	8
LRGU body	19	4	2	11
Other	3	3	-	7
Total	281[3]	59	19	426

[3] The number of bodies/persons complained against is larger than the number of complaints, since some of the complaints point to several bodies/persons

2.2.3. Fight Against Discrimination at the National Level and the Problem of Underreporting

Assessment of the system for protection against discrimination

The ADA established a system for protecting victims of discrimination through the reactive mechanisms of reporting to the Ombudswoman and special ombuds institutions, or instituting judicial proceedings. However, its efficiency is conditioned by both the citizens' readiness to point at discrimination, and by consistent enforcement of the legal prohibition by competent institutions. Additionally, along with the possibility to file complaints and press charges, the system for protection against discrimination also includes preventive actions, such as providing training for experts and developing policies in line with the principle of equal action, or breaking stereotypes and prejudices. The effectiveness of protection against discrimination thus depends on both reactive and proactive acting.

The number of complaints sent to the ombuds institutions, since the ADA came into effect, has been on the rise, with citizens continually addressing the Ombudswoman due to discrimination in the field of labour and employment, and on the grounds of race, ethnicity, colour and national descent. This is confirmed by the results of the 2016 national survey of the attitudes and level of awareness about discrimination and its manifestations, in which respondents identified discrimination as being most prevalent in the area of labour and employment, followed by the judiciary, the media and education, with the most common grounds for discrimination being national affiliation or descent, followed by religious affiliation, social background, material status, and political conviction.

The problem of underreporting

Although we already reported on other findings of the survey, and presented them to the public last year, it should be stressed that it shows a greater presence of discrimination than that reported to the competent bodies. Many cases have never been sanctioned because citizens do not recognise discriminatory conduct as such, or are not aware that the law prohibits it. The findings of the survey showed that as many as 50% of the respondents were not aware of the ADA as the umbrella anti-discrimination law in force since 2009.

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The CSOs involved in combating discrimination state citizens' lack of trust in institutions and the judiciary as the primary reason for underreporting, followed by fears from the consequences, especially if they are discriminated against within the institutions in which they have started the processes of claiming their rights. In addition, the failure to identify discrimination and the lack of knowledge about who to contact serve as reasons for underreporting, as well, but what is most concerning is resignation, resulting from the attitude about discrimination being an all-present phenomenon which, despite that, fails to be condemned in the public discourse.

The number of discrimination complaints and initiated judicial proceedings does not provide a full picture of the presence of discrimination, as in most cases citizens do not report it at all.

Beside the option to report to the ombuds institutions, victims of discrimination may also seek judicial protection. However, citizens are reluctant to address the courts, most often due to financial commitments involved, as indicated by the CSOs as well. Our survey showed that only 2.8% of the respondents would contact the court or the State Attorney's Office (SAO), even if they or some of their close friends of family were discriminated against. This is the reason why the number of discrimination complaints and initiated judicial proceedings does not provide a full picture of the presence of discrimination, as in most cases citizens do not report it at all, which is why they need to be additionally informed, induced and encouraged, while the existing protection mechanisms, including those by the judiciary, need to be continuously reinforced.

Judicial proceedings

The currently available data on the number of court proceedings and their completion, the claimants' rate of success and sanctions against the perpetrators of discrimination may be discouraging for the victims, with protracted procedures, few claims upheld, low compensation amounts, and sentences often below the legally required minimum. This arises from MJ statistical data, and the analyses of sentences provided by some courts. To assess the effectiveness of the existing system, an overview of information regarding the use of judicial protection in 2017 is provided below, with a review of the implementation of prohibition of discrimination by civil, misdemeanour, criminal and administrative courts.

Although the number of discrimination-related civil cases increased in 2017, only 16% of the cases resolved in valid decisions ended in the claim being granted.

In 2017, citizens mainly sought to protect their rights in civil cases before municipal courts. However, despite a rise in the number of these cases in relation to 2016, due to lengthy procedures, only 21% were concluded in a final judgment by the year's end. Proceedings in over 84% of the cases lasted over a year, and out of 203 cases only 56 were received in 2017. Underreporting is thus confirmed by the small number of civil cases filed.

Among the cases concluded in a final judgment, the fewest – only 7 – ended by granting the claim, which points at the still present challenges in the implementation of anti-discrimination legislation. Although the number of granted claims increased in relation to the year before, this remains a very small percentage of successfully concluded cases. Such statistics of the civil proceedings is certainly conditioned by the insufficiently developed case law, which partly results from the large number of cases concluded "in other ways", in which objective justification of the (lack of) grounds of the claims is missing.

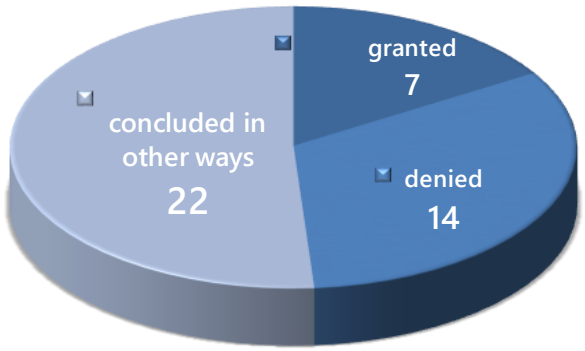
In 2017, citizens mainly sought to protect their rights in civil cases before municipal courts. However, despite a rise in the number of these cases in relation to 2016, due to lengthy procedures, only 21% were concluded in a final judgment by the year's end. Proceedings in over 84% of the cases lasted

over a year, and out of 203 cases only 56 were received in 2017. Underreporting is thus confirmed by the small number of civil cases filed.

Moreover, according to MJ data, not a single joint action or claim for grave forms of discrimination was brought in 2017, and no judgements were made for grave forms of discrimination, which points at a fall of interest or the objective impossibility of action by CSOs, which had earlier initiated such proceedings.

The claims in civil cases are most often declaratory, then reparatory, with the fewest number focused on the prohibition or elimination of discrimination, which indicates that claimants opt for court proceedings mainly after prohibitive or restitutive claims have become pointless.

DECISIONS IN CIVIL CASES IN 2017



In line with the practice so far, compensation paid for violations of personality rights normally do not exceed the amount of HRK 30,000.00. Since they are supposed to be fair, taking into account the severity and duration of the violation, and with their preventive purpose, it is questionable whether compensations awarded in each specific case meet all the above criteria. Violations may refer to a range of situations involving different levels of pain and fear, therefore in assessing the amount of compensation to be paid, it should be taken into consideration whether the victim's mental health has been affected, or they have experienced a sense of dissatisfaction, anger, shame or humiliation, and to what extent.

Cases to determine discrimination and compensation are still most frequently instituted by employees against their employers, usually after employment has been terminated or their rights have been so seriously threatened that the fear of victimisation has become irrelevant. Claimants often state they were put in an unfavourable position in the process of defining new job systematisation and offered to sign the work contract for a less -paid job before taking the case to court, that they were not assigned tasks any more, or were isolated from their previous work processes and environments, which adversely affected their physical and mental health.

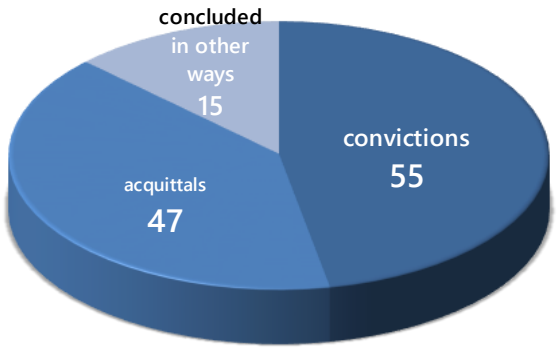
The most common ground for discrimination in the civil cases was the social position, followed by trade union membership, gender, education, political and other conviction, age and health status, whilst other grounds included fewer cases. Compared to the years before, there were fewer claims with no discrimination grounds indicated, nor is it visible within the evidential proceedings carried out, which results in a rejection of the claim. In some cases, mobbing was stated alongside discrimination as the ground for compensation, in the form of continuous workplace harassment not conditioned by any discrimination ground. Although referring to multiple discrimination grounds can have certain advantages, it may also be a result of the failure to understand the criteria for determining discrimination. It is here that court decisions containing clarifications of the basic elements of these legal institutes can have precious educational effect.

As for discrimination-related misdemeanour cases, 193 were processed in 2017, of which 89 were newly received. And while civil cases were the most numerous last year, this is only the result of extended procedures and carrying over unresolved cases from previous years. Thus, in 2017 the most initiated cases and those resolved through valid decisions were the misdemeanour ones. Among them, 47% judgements were convictions, and 40% acquittals.

The injured parties are often victims of not only verbal, but also physical violence, which points at a serious level of intolerance towards particular groups of citizens.

However, taking into account the MJ statistics from previous years, when convictions were even more prevalent, there was considerably less disparity in 2017 between convicting and acquitting decisions. In addition, the statutes of limitations had expired for processing some misdemeanour cases, following which charges were rejected, resulting not only in failure to sanction the perpetrators, but such an outcome certainly affected the victims, demotivating them to file reports in the future.

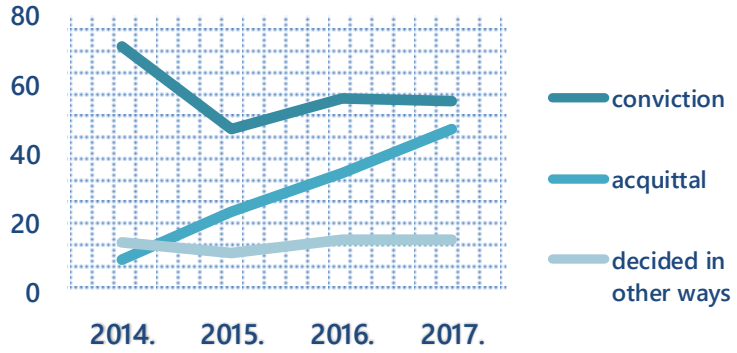
DECISIONS IN MISDEMEANOUR CASES IN 2017



Defendants in misdemeanour cases were most often processed for harassment, and were typically ordered to pay fines. The motives for harassment included national descent, followed by social position and race or ethnicity, skin colour and gender, while other grounds for discrimination were present less frequently. The most common victims of harassment were members of the Serb national minority, although persons of Bosniak descent and Islamic religion were targeted as well, being called "*balijas*" and linked to "islamists".

Victims were often verbally harassed, followed by physical violence, which points at a high level of intolerance towards particular groups of citizens. Despite this, the accused are still mainly charged pecuniary fines below the stipulated minimum, by applying mitigating circumstances such as their material circumstances, acknowledgment of misdemeanour, remorse etc. There are exceptions, mostly in assessing specific circumstances in meting out sentences. For instance, in a case filed on the grounds of harassment based on ethnicity, religion, language and national descent during a cultural and artistic event, the defendant was fined HRK 15,000.00, which is significantly different from the existing practice of dispensing more lenient sentences. In rendering its judgement, the court had assessed the effects of the offence perpetrated in relation to both the victims, and the international relations with their country of origin. Although this case of misdemeanour was of greater significance for the society, the preventive purpose of sanctioning presumes the application of equal criteria for expressing the society's reprimand for all discrimination-related misdemeanour offences, as the punishment should have an effect on the awareness of both the perpetrator and other citizens about the violation of public order.

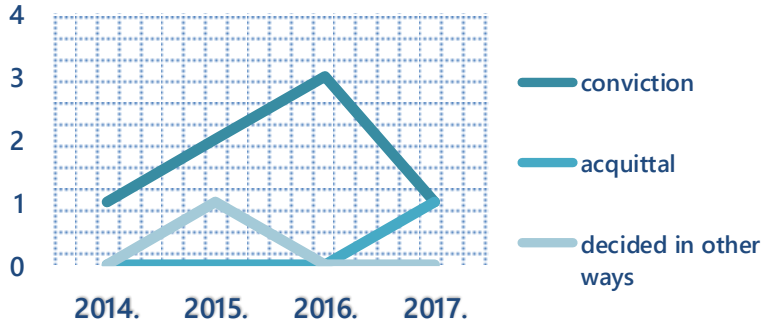
CLAIMANTS' SUCCESS RATE IN DISCRIMINATION-RELATED MISDEMEANOUR CASES 2014-2017



In 2017, several judgements were rendered for misdemeanour offences punishable under Article 35 of the Gender Equality Act, for violating the principle of gender equality on ballot papers for electing members of LRGU representatives at the expense of women, on the grounds of which legal action was taken against the political parties and physical persons who proposed such candidate lists. In deliberating the matter of misdemeanour, the court did not find the defendants' arguments, that women were not interested in being included on the lists, especially in smaller communities, to be relevant. Despite the significance of the gender equality principle, fines were imposed below the stipulated minimum, as the court concluded that even more lenient sanctions would fulfil the goal of individual and general prevention, and that the defendants would not commit such offences in the future.

As in the previous years, discrimination-related criminal proceedings were the least numerous in 2017, with only four cases received during the year, and the remaining 11 carried over from the previous period. Only two cases were resolved resulting in a valid judgement, one in acquittal and the other one in a suspended sentence. Public incitement to violence and hatred remains the most common discrimination-related criminal offence, followed by sexual harassment, while language and sexual orientation constitute the most common discrimination grounds, followed by race, ethnicity or skin colour, and national and social background. In its 2018 Report on Croatia, the EC also noted the presence of quality and efficiency issues in processing criminal cases, particularly due to the lengthiness of proceedings and inadequate resources. Not only did the number of unresolved cases increase at criminal courts, but due to the lack of human resources in the State Attorney's Office, instituting proceedings and sanctioning perpetrators of criminal offences, including those related to discrimination, certainly remains inefficient.

CLAIMANTS' SUCCESS RATE IN DISCRIMINATION-RELATED CRIMINAL CASES 2014-2017



As for administrative disputes, considerable differences were observed in 2017 in the quality of argumentation with regard to discrimination, with some claimants continuing to approach this institute in a rather slapdash manner, by interpreting the denial of right stipulated by a certain law as

discrimination, or identifying discrimination in an unequal treatment not conditioned by any discriminatory grounds.

On the other hand, some administrative disputes included very well elaborated arguments, the effects of which surpassed the case in question. Thus, several legal actions were taken to overturn administrative acts rejecting the complainants' applications for the admission to Croatian citizenship, or abolishing the status of foreigners with permanent residence in the RC, in which reference was made to the arbitrariness of the security vetting procedures, in the course of which some groups were profiled on religious and ethnic grounds, and considered, due to global political situation, to pose an increased risk for national security, of which more details are provided in the chapter on status rights. The arguments presented were of broader social significance, generally questioning the existing legal framework and the way it is enforced. Therefore, regarding the processes questioning the implementation of national regulations and their relation to European legislation, it will be interesting to follow the future development of case law, and possible application of legal instruments standing at the disposal of claimants dissatisfied with the outcomes of proceedings before national courts.

In conclusion, victims of discrimination seeking judicial protection encounter numerous challenges which, though partly conditioned by the type of proceedings, show the common need to further enhance the position of the victim as claimant, i.e. the injured party. In some cases, this presumes better training on discrimination. In others, a more balanced application of certain anti-discrimination institutes, strengthening the preventive purpose of sanctioning by aptly sentencing the perpetrator and compensating the victim, providing financial empowerment to the claimant and the like. Nevertheless, the possibility to compensate the victim(s) and establish mechanisms that work only after discrimination has already occurred is just one of the necessary steps for its combating, and the system should certainly include preventive actions, too.

Wider fight against discrimination

For the fight against discrimination to be efficient, it is important that all actors responsible for ensuring protection are aware of the meaning of prohibiting discrimination. As the ADA stipulates everyone's obligation to report suspected discrimination to the ombuds institutions, the efficiency of protection depends on the level of information of employees of all public authorities, as well as legal persons and citizens, about the prohibition of discrimination and possibilities for its reporting. Support for victims is critical, too, especially when their material status prevents them in accomplishing judicial protection.

Furthermore, an efficient system presupposes applying the principle of equal action to all procedures related to the prohibition of discrimination. Although there had not been any since 2013, the Government adopted the National Plan to Combat Discrimination from 2017 to 2019 only in late 2017, along with the accompanying Action Plan 2017-2019. Now follows the period of implementation, which involves

After the previous one expired in 2013, in late 2017, the Government adopted the National Plan to Combat Discrimination 2017-2022, and the accompanying Action Plan 2017-2019. Now follows implementation, which has to be in the set deadlines, with adequate funds provided and measures implemented as defined in the Plan.

numerous bodies that have to fulfil their roles within set deadlines, while adequate funds need to be provided and measures implemented as defined in the Plan, taking into account their purpose of achieving the set goals.

The Plan foresees goals and measures in the areas of labour and employment, education, science and sports, social welfare and family, health care, administration and the judiciary, access to housing, public information and the media, and access to goods and services. Some of the measures are aimed at eliminating the existing discriminatory practices, while others are intended for raising the availability of services or the level of inclusion of marginalised individuals of groups. Additionally, many of the measures are of preventive character, such as workshops to inform and sensitise civil servants and police officers, as well as employees in health care, education and elsewhere, which is in accordance with our earlier recommendations, as such preventive measures directly contribute to decreasing the occurrence of discrimination.

However, training of civil servants and LRGU employees on anti-discrimination legislation is still not being conducted, with the exception of those working on tasks related to ESI funds. While their education should continue, it is crucial to train all civil servants and local government employees. This is corroborated by information presented in the complaints, with most of them referring to public authorities, but also by data provided by CSOs. Including the ADA into legal sources required to take the state professional exam would contribute to civil servants' understanding of the legal framework. Nonetheless, this recommendation from the 2015 and 2016 Reports has not been carried out, despite being one of the measures in the Action Plan to Combat Discrimination, and the deadline for implementation expired in 2017. Finally, training of police officers plays an important role, as well, as currently there are none dealing solely with anti-discrimination legislation and/or suppressing racial discrimination, including race-based profiling and hate crime.

The formally established system for protection against discrimination requires numerous improvements. They are necessary with regard to sanctioning the existing, but also preventing cases of discrimination in the future, by amending discriminatory regulations and correcting social practices and negative prejudices. As confirmed by an independent analysis of the efficiency of anti-discrimination policies in the RC conducted in late 2017,[4] significant deficiencies include lack of information about protection among potential victims, and the low level of knowledge about the ADA among the employees in the institutions supposed to ensure the implementation of prohibition of discrimination. Targeted training and public information could rectify these shortcomings, but it is certainly also necessary to build a society where differences do not lead to discrimination, which can best be achieved through civic education and training for human rights.

In this context, the work of CSOs is indispensable, as it is them that citizens address when faced with inequality, as with many other problems. Being in direct contact with citizens, CSOs play an important role in providing information and encouraging them to report a problem. Additionally, some organisations implement activities that provide much-needed support to the established system, such as training stakeholders, carrying out campaigns, surveys, analyses of policies and regulations and the

[4] The analysis 'Korak naprijed, nazad dva - Antidiskriminacijska politika u Hrvatskoj' covering the 2011-2016 period, but also including events from 2017, avaliable at: https://www.cms.hr/hr/publikacije/korak-naprijed-nazad-dva-antidiskriminacijska-politika-u-hrvatskoj.

like. Those CSOs need to be ensured sufficient financial means for their activities, particularly in dispensing legal and psychological aid to victims of discrimination. To strengthen collaboration, and as a token of support for their work, we expanded the network of anti-discrimination contact points in 2017, selecting as partners through a public initiation 11 CSOs from various parts of Croatia with relevant experience of work in fighting discrimination.

Finally, in order to promote equal action, breaking stereotypes and emphasising the positive effects of non-discrimination, we carried out a national campaign with our partners – Centre for Peace Studies and the Croatian Government Office for Human Rights and Rights of National Minorities. The campaign was EU funded, and included a TV and radio clips, and posters put up in 38 cities. The materials told the stories of four persons with different ethnicity or skin colour from the majority population, but who were not prevented by these differences from participating in social life on an equal footing. Unlike our previous campaigns, conducted to inform the general public about the ADA and the prohibition of discrimination in the field of labour and employment, this one, held under the slogan 'Differences are not obstacles', put the value of inclusiveness in the forefront as one of the preconditions for attaining equality.

Postersfrom the campaign 'Differences are not obstacles, For a society without discrimination.' ('Razlike nisu prepreke. Za društvo bez diskriminacije.')

RECOMMENDATIONS:

2. To the Government of the Republic of Croatia, to secure adequate funding for carrying out the Action Plan for the implementation of the National Plan to Combat Discrimination 2017-2019, ensuring that all state bodies charged with implementing measures do so within the deadlines and in the manner specified by the Action Plan;
3. 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;
4. To the Ministry of Public Administration, to include the Anti-Discrimination Act among legislative sources for taking the general part of the State Professional Exam;
5. To the State School for Public Administration, to organise training for civil servants, LRGU employees and state officials on the legislative and institutional framework for fighting discrimination;
6. To the Police Academy, to organise training for police officers on fighting discrimination and combating racism, xenophobia and hate crime;
7. To the Croatian Bar Association, to provide regular training for lawyers on the application of Croatian and European anti-discrimination law;
8. To the Croatian Employers' Association, to provide regular workshops on the application of Croatian and European anti-discrimination law, especially in the area of labour and employment;
9. To the Office for Cooperation with NGOs and the Office for Human Rights and Rights of National Minorities, to continue supporting the work of civil society organisations with the expertise and capacity to press joint discrimination charges and provide legal aid to victims of discrimination;
10. To the Ministry of Science and Education, to include, in developing the national curriculum, the content/program of civic education as a separate subject, in order to raise awareness about the importance of understanding the society as a community, recognise the value of respecting others and increase the level of tolerance among students and the society in general;

3. INDIVIDUAL AREAS OF HUMAN RIGHTS PROTECTION AND FIGHT AGAINST DISCRIMINATION

3.1. THE JUDICIARY

The content of the complaints submitted to the Ombudswoman in 2017, public reactions to high-profile judicial processes, public opinion surveys, and relevant reports of the European institutions and organisations clearly show there is still a high level of the citizens' distrust of the judiciary. According to the 2017 EC Report on the Perceived Independence of the National Justice Systems, 85% of the citizens do not consider the Croatian judiciary independent, and believe judges to be subject to political and financial influence. This opinion is shared by the judges themselves. According to the 2017 report of the European Network of Councils for the Judiciary (ENCJ), 18% of them believe that some judges accept bribes, while 61% stated that court decisions are affected by the media.

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Among the reasons for further collapse of the citizens' trust in the judiciary are certainly some cases that strongly echoed in the public, as well as pressure exerted by some politicians on courts passing judgements, going as far as calling for their disrespecting. To prevent such pressures, and boost confidence in the work of the courts, after the 4th evaluation round of the Council of Europe Anti-Corruption Body (GRECO), a recommendation was given to the Croatian judiciary to develop its communication policy, including general standards and rules of conduct in communication with the media, in order to enhance transparency and accountability. Unfortunately, the 2016 Compliance Report states that this recommendation has not been implemented. A growth of confidence in the judiciary in the general public would also be bolstered by continuous public disclosure of court decisions, in which respect, according to information from the European Justice Scoreboard 2017, Croatia takes the 18th position. Moreover, only 13% of the Croatian judges have attended training in European law, putting Croatia at the European bottom.

According to the 2018 EC Report on Croatia, limited progress was made in 2017 with respect to the quality and efficiency of the judiciary, owing to inadequate human resources within judicial bodies, the presence of corruption, the length of judicial proceedings, and the inexistence of appropriate legal mechanisms that would ensure the independence of the judiciary. In addition, insufficient progress was mentioned in the implementation of the measures aimed at increasing the efficiency and modernising the judicial system.

The Justice System Reform aimed at improving its efficiency and transparency was launched in late 2017. The proposed amendments to the State Judicial Council Act provide a solid basis for suppressing corruption and enhancing efficiency of the judicial power, in that they should result in greater objectivity and transparency of the State Judicial Council's work. Additionally, the draft amendments to the Courts Act include GRECO's recommendation about the process of appointing

the President of the Supreme Court and the duration of their term in office, in order to make the process more transparent. Also, merging municipal and misdemeanour courts is envisaged, to make them more efficient. However, GRECO's recommendation about a stricter separation of the judiciary from other branches of power was not implemented, meaning that judges keep the possibility to participate in the executive power, which can result in conflicts of interest.

The system of providing free legal aid certainly does not contribute to improving the citizens' trust of the judiciary, being completely non-functional due to delays in issuing the call for tenders for financing its providers, and the lack of transparency in its implementation. In addition, the low level of awareness about the benefits of mediation as a dispute settling procedure is still pervasive, including cutting the duration and costs of extended judicial proceedings. Although the amendments to the Criminal Procedure Act mostly aligned the Croatian legislation with the EU Directive in normative terms, implementing acts have not been adopted yet that would define the specific tasks of parties implementing measures from the National Strategy for Developing the System of Support to Victims and Witnesses in Croatia 2016-2010.

3.1.1. Complaints regarding judiciary

'We've been listening to what the highest officials in the country are saying. They sound as if they'd come from another planet where the judiciary functions in a more or less normal way. Our judiciary is so intoxicated that it can't be fixed or tolerated... Only those who are untouchable, rich and well-connected can praise such judiciary. There may be only 3% of them, but they rule and are in power, and the remaining 97% remain utterly insignificant, written off, sick and unhappy.'

Although activities within the reform of the judiciary so far have yielded some results in terms of raising efficiency and accelerating the rate of case resolution, citizens continued to submit complaints to the Ombudswoman in 2017 related to the abuse of authority and position by the judges (46), and duration of court proceedings (42). They pointed at irregularities in conducting judicial proceedings and rendering valid court judgements (32) which, in popular perception, was the result of corruption. As for the work of judicial administration, 5 complaints were received, and 75 about the work of the State Attorney's Office (SAO). Their content indicates a continued trend of the lack of citizens' trust in the judiciary, inadequate justification of court judgements, and frequent invalidation of lower-instance rulings, resulting in an excessive duration of judicial proceedings, stated as a problem in the 2018 EC Report on Croatia, as well.

The complaints indicate a continued trend of the lack of citizens' trust in the judiciary, inadequate justification of court judgements, and frequent invalidation of lower-instance rulings, stated as a problem in the 2018 EC Report on Croatia, as well.

According to the MJ report, 2283 complaints were received in 2017, or 579 more than the year before. 1666, or 73% of these, referred to the work and decisions made by courts, and 197, or 8.5%, to the work of the SAO. However, only 4% of them were founded, which points at the importance of developing a communications policy for the judiciary, in line with GRECO's recommendation.

Moreover, 63.1% of the complaints referred to the work and decisions made by courts in civil, and 19.4% in criminal cases, while the remaining 17.5% referred to the work and decisions made by administrative, commercial and misdemeanour courts, and other judicial bodies. Citizens were mostly dissatisfied with court judgements and the length of proceedings. In 2017, judicial inspectors supervised 4 county courts and 6 municipal courts, while the Department for Supervising Financial and Material Operations carried out inspections in 2 municipal attorney's offices and 4 courts, on the basis of which no disciplinary procedures were initiated, though. The number of complaints to the MJ about the work of public notaries (17) and lawyers (6) is low, having dropped in relation to the previous years.

In 2017, 9625 cases were delegated pursuant to Article 11 of the Courts Act, which is one third more than in 2016. Although the MJ claims that delegating cases to courts in other jurisdictions does not violate clients' rights, as those cases are mostly delegated in which the client's presence in the procedure is not necessary, and cases are thereby resolved more quickly, we received a complaint stating that, since cases are delegated, procedures against complainants are held throughout Croatia, making it impossible for them to be materially or physically present. Given their poorer material status, their access to court and to the discussions are prevented, since they must pay the travel costs in advance, which they cannot afford.

The material funds provided to the judiciary have for years been inadequate for all the tasks within its scope. However, of particular concern is the lack of funds for conducting training activities. According to data by the Judicial Academy, the State School for Judicial Officials had no attendants in 2017, and no professional training was organised for trainees in the judicial bodies, as there were none, anyway.

3.1.2. Free legal aid

...I've visited the NGO several times and had their lawyer write letters for me, as she understands the problem and what it's all about, I opened my heart to her... the last time I went there they told me they wouldn't be able to help any more, as they had to close down the NGO because they didn't have money for the rent. I am therefore addressing you to ask if you could help me with my problem...'

According to the UN 2030 Agenda for Sustainable Development, one of the goals of sustainable development is to ensure equal access to justice. Within this context, the right to the provision of legal aid is a necessary precondition for its realisation. The role of the state in planning an adequate system for financing free legal aid (FLA) was also stressed by the UN Human Rights Committee in the Concluding Observations on the Third Periodic Report of Croatia, in line with the International Covenant on Civil and Political Rights from 2015. Additionally, the 2017 EC Report on Croatia considers ensuring legal aid to socially vulnerably categories of population to be of key importance for realising the right of access to justice.

The survey "Free Primary Legal Aid in Croatia – Perspective of Authorised Providers", conducted by the Human Rights House Zagreb in 2017, found that problems of the current FLA system do not only

result from an inadequate legal framework, but also from its inconsistent application and perceived importance, as the Ombudswoman persistently pointed out in her reports. Dysfunctionality of the current system is, first and foremost, reflected in the unsustainable financial framework in which the providers of FLA operate. HRK 700,000.00 was allocated for financing primary legal aid in 2017, or 25% of the funds earmarked for the work of the entire system. A re-balance of the state budget ensured an additional HRK 351,454.92, distributed by the minister's decision to five providers in December.

The MJ failed to announce a tender for financing projects by providers of primary legal aid within the legal deadline, by 31 January, doing it only on 10 March 2017, while the Provisional List of selected projects was announced as late as in September. Absurdly, contracts with the selected providers were only signed in mid-November, and the funds disbursed in early December! Consequently, the providers were denied financial funds throughout 2017, which is why some of them stopped providing FLA. As there is no possibility for retroactive financing, the unspent funds must be returned to the state budget, whereby a wrong message is sent with regard to future budgetary projections about there being no need for increasing funds for this purpose.

During 2017, the rapid collapse of the free legal aid system continued, putting the purpose and the goal of the present system in question.

In addition, due to irregularities in the implementation of the tendering process, its transparency and legality is questionable. Pursuant to the Free Legal Aid Act (FLAA), the Commission for Free Legal Aid is an advisory body monitoring the provision of FLA and, before decisions are made on the financing of selected projects, gives opinions on the applications. During the implementation of the tendering process, the Commission was not timely provided with a list of projects applied, because of which it could not analyse their quality or make a qualified decision. Moreover, the Commission for Implementing Public Tenders for Financing Projects by Organisations and Legal Clinics for Providing Primary Legal Aid does not include a single representative of authorised providers, all of its members being MJ employees, which puts the transparency and objectivity of their decision making in question.

The Report on Realising the Right to Free Legal and the Use of Funds, submitted by the MJ through the Government of the RC to the Croatian Parliament, contains no data on the occurrence and form of legal aid provided by CSOs and legal clinics, even though the MJ duly receives this information. It is of crucial importance to present the real situation and the fact that citizens mainly contact CSOs, given their direct approach, but also their specific role in the society. In addition, CSOs are active on a wider territorial area, have immediate relationship with vulnerable social groups and direct insight into citizens' needs, and are sensitised to their problems. Therefore, it is necessary to plan a long-term development strategy of the FLA system, and balance the budgetary allocations for primary legal aid with those for the secondary, the current balance standing at 75:25 in favour of the latter. The importance of primary legal aid is multifaceted, as it includes, among other things, legal aid in proceedings before administrative bodies in which citizens pursue rights arising from the status, health and pension insurance, and rights from the social welfare system. In planning FLA system sustainability, the possibility should be considered of financing providers on the basis of multi-year programs, i.e. strengthening their institutional capacities.

Although securing a financial framework for FLA functioning is the primary responsibility of the state, the FLAA stipulates the possibility of financing FLA projects by local and regional government units (LRGU), though only a few of them did it in 2017. Taking into account the constraints of their budgets, they should consider the possibility of allocating funds to providers as part of their budgetary planning, which would ensure a greater availability of FLA in local communities.

There are 55 providers currently listed in the Register of FLA Providers. However, some of them have stopped working and citizens cannot contact them. It is therefore necessary to harmonise information in the Register with the actual situation and publish information of the providers citizens can contact on the MJ website.

As the institutional framework of the FLA system includes 20 state administrative offices on the county level, citizens can address them, too, as they are authorised not only to receive requests for approving secondary legal aid, but also to provide primary legal aid. Besides, in eight counties there are no registered FLA providers at all, making the role of state administrative offices as providers of primary legal aid exceptionally important.

In planning FLA system sustainability, the possibility should be considered of financing providers on the basis of multi-year programs, i.e. strengthening their institutional capacities.

However, the provision of FLA by state administrative offices entails a series of shortcomings that greatly limit its effects. For example, despite the legal restriction according to which primary legal aid may not be provided by the same civil servant who decided on the request to approve secondary legal aid in the same case, in many state administrative offices the same employee performs tasks related to providing both types of legal aid. In addition, employees working on these tasks are inadequately trained in various legal fields and incapable of providing a sound legal advice. In many state administrative offices, there are no records of the provision of primary legal aid, which, though not a legal requirement, may provide an overview of the most common legal fields where citizens ask for legal aid. Establishing such records would facilitate planning and conducting training in the areas where legal aid is required the most by citizens. According to information provided by state administrative offices, the problems in collecting documents required to decide on the material status of applicants lead to exceeding legal deadlines for deciding on requests for secondary legal aid. This is because the application used by state administrative offices in the process of collecting documents contains a series of shortcomings, making access to official records more difficult, which is why it is necessary to request them directly from the competent bodies. This prolongs issuing decisions of FLA requests, making the system itself useless.

3.1.3. Mediation

The European Parliament Resolution on the Implementation of Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters stresses the importance of mediation and calls on member states to permanently educate the general public about the goals and benefits of mediation as a significant mechanism for the prevention of lengthy judicial proceedings. Although there is a legal framework for out-of-court settlement of disputes established in Croatia, citizens are

still not adequately informed about the modes of mediation, and therefore enter long and expensive judicial proceedings. The document "Recommendations for Strengthening the Use of Mediation in Croatia", issued by the American Chamber of Commerce in Croatia, also points at the low level of awareness, in both the judiciary and the general public, about the benefits of mediation as a dispute-settling mechanism.

In accordance with the Mediation Act, mediation processes may be conducted before all regular and specialised first- and second-instance courts of law, mediation centres at professional associations, and CSOs. While the Mediation Act authorises judges to advise parties in civil proceedings to consider the possibility of mediation, they rarely do so.

In 2017, an obvious disproportion was noted in the number of mediation processes carried out. While 150 were carried out before courts in some of the bigger urban centres, at a significant number of courts none were initiated. Furthermore, due to more intensive promotion and a more active approach to citizens, the CSOs registered for mediation from bigger cities noted a 50% increase in the requests for mediation compared to the year before. However, their activities failed to reach the population outside the big cities, which emphasises the role of the courts as a first step on which to inform parties about the mediation option. Consequently, the public needs to be systematically informed about the alternative way to settle disputes, while all actors, judges and lawyers in particular, continuously need to undergo professional training.

Although there is a legal framework for out-of-court settlement of disputes established in Croatia, citizens are still not adequately informed about the modes of mediation, and therefore enter long and expensive judicial proceedings.

3.1.4. Support for victims and witnesses in criminal proceedings

'...by the end of 2014, I pressed criminal charges for violent conduct against the partner who I'd been living with at the time... the Split State Attorney's Office presented an indictment in January 2015... the Municipal Court in Split confirmed the indictment in January 2016... the first hearing was called in May 2017 by a judge's order for July 2017... please help me.'

With the latest Amendments to the Criminal Procedure Act (CPA), the Croatian legislation was normatively mostly harmonised with Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, which should have been transposed into the national legislation by the end of 2015.

However, the range of rights guaranteed by the Directive is much more comprehensive and complex compared to its mere transposition into the CPA, requiring the alignment and implementation of other laws and sub-legal acts, which is greatly delayed. For instance, the Ordinance on Carrying out Individual Assessment of Victims was only adopted in late 2017, and it remains to be seen to what extent the stipulated conditions and methods for producing individual needs' assessments of crime victims will meet the expectations with regard to additional protection of victims, to reduce the risk of further traumatisation or re-victimisation. According to data supplied by the CSOs involved in the provision of psycho-social and counselling help, there is a notable lack of consistency in actions taken

by different bodies, indicating inadequate preparedness for the implementation of these rights. In addition, the Ordinance should also be applied to victims of misdemeanour offences, in line with both the tendencies in the European legislation and the standards of the Directive, which move towards equating victims of criminal and misdemeanour offences. Some of the measures included in the National Strategy for the Development of a System of Support for Victims and Witnesses 2016-2020 have not yet taken hold. The modes of their implementation, as well as specific tasks of particular agents, should have been described in more detail in the Action Plan for the Area of Developing Support for Victims and Witnesses 2016-2020, which has not been adopted yet.

It is crucial to provide free information about the support services in the form victims can understand, both written and verbal, as they often find templates and instructions incomprehensible.

The police, the SAO and the courts still focus primarily on the accused and their rights, whilst not enough account is taken of the rights of the victims and witnesses, and frequently they are treated inappropriately, with insufficient respect for the fact that testifying makes an extremely unpleasant and disturbing experience, since they have to re-live a traumatic event, but also on account of their lack of knowledge of the conditions of court proceedings. The citizens' complaints were mainly related to their inadequate knowledge of their rights and the proceedings, inappropriate conduct of the institutions, the lack of psycho-social support, duration of processes, multiple interrogations, failure to be provided information about the outcomes of criminal charges they had pressed, the lack of support in misdemeanour processes, difficulties in having compensations paid out, and exercising some of their guaranteed rights.

For victims to be able to exercise their rights, they first have to be informed about them. The Directive defines how this is to be done, insisting on individual approach and an assessment of each victim's communication skills and barriers. From their first contact with the authorities, victims must be fully informed, to be able to effectively exercise their rights guaranteed by the Directive. It is therefore crucial to provide free information about the support services in the form victims can understand, both written and oral, as they often find templates and instructions incomprehensible.

The repressive system as a whole is slow, with criminal proceedings taking years to complete, and nearly one third of misdemeanour cases suspended on the grounds of expiry of the statute of limitations. While acknowledging that many judges are overburdened with a large number of cases, from the perspective of the victim, but also of the accused, it is still unacceptable to have to wait for the first hearing to be held for months after the charges were confirmed, which happens often. One of the basic principles of the criminal proceedings is that the court should decide on the charges within a reasonable period of time, conducting the proceedings without procrastination and taking into consideration the victim's rights and interests. With this regard, court presidents should, in accordance with their authority and obligations stipulated by the Judicial Rules of Procedure and the Courts Act, implement continuous measures and activities aimed at a more orderly and timely performance of all court activities, including the efficiency of legal actions with respect to deadlines, but also communication with clients. In addition, the right to appeal to the senior state attorney on the grounds of a failure to act on a crime or a report by the victim in practice shows to be an

ineffective mechanism for protecting the victim's interest, which is why a quicker and more efficient way to control the promptness and quality of the courts' work must be found.

In 2017, pursuant to the Crime Victims' Compensation Act, out of 31 requests, one was granted and HRK 5000 was paid as compensation. Since the enforcement of this law began on 1 July 2013, a total of under HRK 200,000 has been paid out. Such a small number of requests for monetary compensation testifies that victims are inadequately informed, and that the law is still applied in a very restrictive manner.

According to data of the MJ's Independent Service for the Support for Victims and Witnesses, as part of the National Strategy of Development of a System of Support for Victims and Witnesses in the RC 2016-2020 measures related to the training of professionals coming into contact with victims and witnesses, lectures were organised in 2017 for staff from the police, social welfare system, mental health centres and centres for psycho-social help of the Ministry of Croatian War Veterans Affairs (MWVA). In 2017, as part of the regular Training Program of the Judicial Academy for staff in the judiciary, workshops were organised focusing on the rights of victims/witnesses and sensitising to their needs. Still, there is a permanent need for additional training on the support for crime victims for all who meet them in their work, as it is usually only the already trained and sensitised who attend such trainings. To bring in line and standardise actions by all stakeholders in the system, it would be useful, along with informal encouragement, to define in the corresponding internal regulations and/or acts, the obligation of attending such training for all those who come into contact with victims, e.g. state attorneys, criminal and misdemeanour court judges, social welfare centre professionals and others, at least those who will be involved in individual needs assessments of victims and deciding on their rights and interests. In addition, this topic should be included in the curricula of relevant colleges and universities, such as the faculties of law, education and rehabilitation, social welfare, and psychology, to raise awareness about the importance of this topic in future stakeholders in the system as soon as possible.

In accordance with the upcoming reorganisation of the court network in which misdemeanour courts will become part of municipal courts, it is necessary to include them as a priority, too, as the need to support victims in misdemeanour proceedings, which deal with one of the most sensitive types of victims, victims of domestic violence, has not been sufficiently recognised so far.

The system of support for victims and witnesses is currently organised on seven county courts, while, based on the agreement on establishing joint services, the staff from departments of these courts also provide support on seven municipal courts and five misdemeanour courts. If the fact is taken into account that there are only two permanent employees in these departments, and that municipal and misdemeanour courts are often dislocated from county courts, it is clear that the existing capacities are inadequate. In line with this, and the upcoming reorganisation of the court network in which misdemeanour courts will become part of municipal courts, it is necessary to include them as a priority, too, as the need to support victims in misdemeanour proceedings, which deal with one of the most sensitive types of victims, victims of domestic violence, has not been sufficiently recognised so far. In addition, the joint services do not include a single attorney's office, and their cooperation is based on the SAO's Binding Instruction from 2014, which instructs the municipal offices to provide victims during the interrogation with information about the National Call Centre for Victims of

Criminal and Misdemeanour Offences, and only if the victim states that they require aid, they are referred to the support services. The effects of the Binding Instruction are best manifested in data by the National Call Centre, according to which only 8 citizens out of the 1628 who contacted the number 116-006 had learned about it from the SAO. Data for the MI are somewhat better (240), but considering that the victim, as a rule, establishes the first contact with police officers, they are not encouraging, either. Although, in 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 and Misdemeanour Offences, and information on the state administrative bodies and CSOs dealing with the support and protection of victims, this is not implemented consistently, so some victims are not given the necessary information.

In 2017, the MJ issued a public call for applications for financing activities by the partner network of organisations involved in providing assistance and support to victims and witnesses in the counties where no departments for support have been established. The call for applications financed 36-month programs, with implementation starting in January 2018, and the total amount of funds ensured standing at HRK 2,038,000.00 in the first year, and over HRK 6 million during the 3-year period. Unfortunately, initiatives like these do not represent a step ahead in terms of the quality of developing the support system. The 2016 Report pointed at a similar problem, when the MJ issued another public call for applications for financing the support in 12 counties, with funding of almost HRK 1.5 million, yet projects were approved for five counties only, as there had been no applications for others. Considering this, it is hardly likely that some of the existing or newly-founded CSOs could have profiled enough within a year to be able to establish a network that could replace institutional support. There are not enough CSOs providing assistance and support to all crime victims in Croatia.

Apart from the lack of capacities, it is the financial sustainability and validity of such a concept of expanding support that is questionable, as well as the quality of service, with respect to allocated funds and the duration, as well as the lack of uniformity of conduct and feasibility of quality supervision. Tasks carried out by experts and volunteers from the organisations for victim support should be in line with the quality standards and work experience of professionals providing support and/or advice. In place of such measures, or in parallel with them, funds should be directed towards a further institutionalisation of the system by scaling up support departments to all county courts and attorney's offices, while CSOs should be involved in the support system through different programs and activities, such as the National Call Centre, which provides victims with free information on their rights and the way to realise them on the number 116-006. Trained volunteers from the Association for Victim and Witness Support participate in the work of the Call Centre, referring victims, among other things, to other institutions and organisations that can provide them with professional help, with the MJ's Independent Service for the Support for Victims and Witnesses supervising their work. In addition, pursuant to the Act on Territories and Seats of Courts, there are 15 county courts in the RC. According to the new draft Bill, the number of county courts will remain the same, which is why it would be better to invest the funds into establishing support departments on the remaining eight county courts, which would, to an extent and at least by the geographic criterion, ensure institutional support on the whole territory of the RC.

Still, the present legislative framework of providing support for crime victims provides a good basis for nearly all forms of support to victims and witnesses. However, this is just a piece of the overall mosaic, and without proper implementation in practice and better cooperation and coordination between the authorities, there are no guarantees that victims will exercise their legally guaranteed rights. Notwithstanding the present awareness of victims' needs and the effort put so far, there is still room for system improvement and development. The lack of funding, capacities or financial means is too often used as an excuse for the shortcomings, for which reason assistance and support to victims for the most part depend on the motivation and commitment of the individuals meeting them.

3.1.5. Hate crimes

Hate crime is a criminal offence motivated by race, skin colour, religious affiliation, national or ethnic origin, language, disability, gender, sexual orientation or gender identity of the other person, and the system recognises two ways for severe punishments for hate crime perpetrators. For some crimes, if committed out of hatred, the qualified form is expressly stipulated, i.e. the higher range of legally prescribed punishment than that for the basic form of the crime. In other cases, when more severe punishment is not expressly stipulated for a particular crime, the motivation of hate crime perpetrators is taken into account as an aggravating circumstance in rendering judgements, in assessing by the court all other mitigating and aggravating circumstances on the side of the defendant.

Data about hate crime, and the criminal offence of public incitement to violence and hatred[5] under Article 325 of the Criminal Code (CC), the so-called hate speech, which are reported in the chapter on expression in the public discourse, are collected by the MI, the SAO and the MJ, and published by the OHRRNM. When analysing these data, the fact must be borne in mind that they are collected in different stages of criminal proceedings, or upon their completion resulting in valid sentences, by applying different methodologies. For this reason, particular information can be discerned from data provided by some authorities, such as the personal characteristics of victims and/or perpetrators, but not from others. Therefore, taking into account the inconsistency of information they provide, even potential contradictions, the source of such data should be taken into consideration in their analysing.

According to MI data, 25 cases of criminal offence were reported in 2017 as hate crime, including public incitement to violence and hatred under Article 325 of the CC, which, in comparison with 2016, when 35 incidents were reported, would point to a drop in the occurrence of such incidents. However, according to available information, this is not a real decrease, but rather the result of the way an incident from 2016 was legally qualified, when the perpetrator on one occasion wrote 12 graffiti with hate speech messages, and each one of those was processed as a separate criminal offence. Bearing this in mind, it can be concluded that the number of hate crimes reported in 2017 was on the same level as in 2016. As for the structure of offences reported, with the exception of the criminal offence of public incitement to violence and hatred, which was reported seven times, the most common were the criminal offence of threat (6) and malicious mischief (4). As in the previous

[5] This criminal offence is not hate crime according to Article 87 (21) of the Criminal Code, but figures on it are collected within this methodology.

years, the most crimes were motivated by national or ethnic descent of the victims (9), with four criminal offences committed against the Roma, three against Serbs, and two against Bosniaks, while persons of homosexual orientation were the targets of hate crime if five cases. Of the remaining number, the MI reported praise of the Ustasha ideology as motivation in two cases, and hatred of persons of different regional affiliation in another two, which requires a special analysis, as the religious affiliation of the victim is not subject to protection provided by criminal offences qualified as hate crime.

Figures from the SAO refer to cases in different stages of pre-judicial proceedings, with some at the stage of inquest or evidential actions being carried out, and some where the SAO has already passed a competent decision, whether pressing of dropping criminal charges. Just like the MI statistics, the SAO data point at similar trends in terms of the motivation for committing and the structure of these criminal offences. Ethnic intolerance is by far most commonly identified as the motive for perpetrating hate crime, with sexual orientation coming second. The criminal offences of threat (13) were the most numerous, with the remainder related to criminal offences against life and limb (five bodily or severe bodily injuries and one participation in fight) or malicious mischief (4). One criminal offence was reported of endangering life and property through a generally dangerous action or means, and one of violent conduct.

According to MI data, courts acted in a total of 32 hate crime-related cases, 14 of which were carried over from the previous period, and 18 new ones were received in 2017. The most of these criminal offences were motivated by national background (12), and sexual orientation (3), with one committed on the grounds of political or other conviction, and two one on other grounds. In total, 12 cases were resolved in 2017, all of them resulting in convictions.

Thus, the 2017 data indicate that the victim's national descent is the most common motivation for committing hate crime, with perpetrators most often resorting to threats, malicious mischief and physical attack.

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While data from the MI indicate that regional affiliation was the motive for intolerance in two instances, MJ data state 'other' as the motive in some cases, which means that this is not a legally recognised hate crime ground. Such criminal offences were motivated by regional affiliation, for instance, but in one of them the institute of hate crime was applied because it was committed against a woman who was pregnant. However, Article 87 (21) of the CC specifies a closed list of grounds that can serve as hate crime motives, which is why the possibility of more severe punishment of hatred in committing crime should be limited exclusively to the grounds stipulated by this Article.

The ECtHR determined that the Croatian- authorities had limited the investigation of the hate crime to the applicant's partner, failing to examine whether the attackers had perceived the applicant as a Roma, too. A possible link between her relationship with a person of Roma origin and the motivation to assault her had not been examined, either, as persons not possessing a particular characteristic, but related to another person who actually or allegedly possesses it, can be targeted by hatred-motivated violence, too.

The special protection provided against hate crime in the form of more severe qualification, as well as sanctioning, has the purpose of removing the inequality some social groups are subjected to, and not the protection of all individuals that for some reasons are particularly vulnerable or exposed, such as pregnant women or persons with regional affiliation. These are not targeted groups that are given special protection in this way, which does not necessarily mean that they should not be provided extra protection in the criminal legislation, though not through the institute of hate crime. As the law defines a closed list of characteristics of the groups such crimes are usually committed against, its misapplication to other groups or individuals imperils its intended purpose. Therefore, these data show that the SAO should be continuously trained on hate crime, with an emphasis on the scope and proper application of the institute.

Recognising and prosecuting these criminal offences persists as a problem, with hatred as a motive for their perpetration still insufficiently recognised and, as a consequence, inadequately or not at all processed. This was mentioned in the earlier reports, and indicated in the sentence rendered by the ECtHR in the Škorjanec vs. Croatia case, in which the competent SAO had failed to properly apply the law to the specific factual situation, resulting in a lack of further investigation of a potential hate crime. The applicant, who is not of Roma origin, had been physically attacked together with her Roma partner. Immediately before and during the assault, the perpetrators had insulted them because of their Roma origin, and she had suffered minor physical injuries. The ECtHR ruled that the RC had violated the applicant's right to the prevention of torture, inhuman or degrading treatment or punishment (Article 3 in relation to Article 14 of the ECHR) since the national prosecuting bodies failed to efficiently investigate the hate crime she had been the victim of, because her partner was a Roma.

Moreover, the ECtHR expressly stated that the Croatian legislation had at its disposal the legal mechanisms providing a sufficient level of protection of the applicant and that, according to the CC, 'it suffices for a hate crime to be committed on account of a person's race, without the need for the victim to personally possess the protected characteristic'. However, the prosecuting bodies had limited the investigation of the hate crime to the applicant's partner, failing to examine whether the attackers had perceived the applicant as a Roma, too. A possible link between her partner relationship with a person of Roma origin and the motivation to assault her had not been examined, either, as persons not possessing a particular characteristic, but related to another person who actually or allegedly possesses it, can be targeted by hatred-motivated violence, too. All above, along with the fact that the national authorities insisted on the relevancy of the applicant herself not being of Roma origin, led to a deficient investigation and assessment of the factual circumstances of the case.

Hence, criminal prosecution authorities sometimes assess particular circumstances on the side of the victim in the context of hate crime, even though they do not belong under the application of this institute, whilst failing in other cases to investigate circumstances of actual relevance for the recognition of hate crime. This points at the need for continuous training of the police, SAO and judges about the European and international standards in combating discrimination and hate crime, as well as the need to have professional discussion and better cooperation between the criminal prosecution authorities, the academic community and other stakeholders, to determine the legal standards of hate crime and avoid rendering judgements like this one, while investigating and properly processing all potential criminal offences. Otherwise, an atmosphere of fear is created

among members of the minority ethnic, national, religious and other groups, along with distrust of the institutions, which causes a series of problems, such as underreporting of hate-related incidents.

RECOMMENDATIONS:

11. To the Ministry of Justice, to develop appropriate communication tools aimed at improving public communication;
12. To the Ministry of Justice, to improve, in collaboration with the courts, the system of disclosing final court decisions;
13. To the Government of the Republic of Croatia and the Ministry of Justice, to provide adequate material and financial means for the work of judicial bodies and the Justice Academy;
14. To the Ministry of Justice, to allocate funds for primary and secondary free legal aid evenly;
15. To the Ministry of Justice, to announce the call for proposals for financing projects by providers of primary legal aid within legally defined deadlines, and to carry it out in a transparent manner and with clearly defined assessment criteria;
16. To the Ministry of Justice and the Ministry of Public Administration, to harmonise data from the Register of Free Legal Aid Providers with the Register of Civil Society Organisations;
17. To local and regional government units, to include funding for primary free legal aid providers in their budgets;
18. To the Ministry of Public Administration, to improve the application used in state administrative offices to collect data from official records;
19. To state administrative offices, to keep record of the number and type of primary free legal aid provided;
20. To the State School for Public Administration, to run systematic, specialized training for officials in state administrative offices who provide primary legal aid;
21. To the Judicial Academy, to provide regular training for judges on mediation and mediation skills;
22. To the Croatian Bar Association, to provide regular training for lawyers on the importance and benefits of settling disputes through mediation procedures;
23. To the Ministry of Justice, to intensify the ongoing activities aimed at informing the citizens about mediation;
24. To the Commission for monitoring and improving the system of support for victims and witnesses, to draw up an Action Plan for developing the system of support for victims and witnesses, and propose it to the Government of the Republic of Croatia for adoption;
25. To the Ministry of Justice, to approve the employment of additional staff at those courts where the tasks of providing support for victims and witnesses are performed as part of joint services for the needs of several judicial bodies, and to establish departments at those courts where they do not exist;
26. To the State Attorney's Office, to establish departments for providing support for victims, or conclude agreements on establishing joint services with county court departments;
27. To the Office for Human Rights and Rights of National Minorities, the Ministry of Justice, the Judicial Academy and the Police Academy, to proceed with training for the police, state attorney and judges on the international and European standards in suppressing discrimination and hate

crime, including the legal standards brought in the judgement Škorjanec vs. the RC, and to organise conferences focusing on this topic;

28. To the Office for Human Rights and Rights of National Minorities, to align the Protocol on acting in cases of hate crime with standards of the joint EU methodology for reporting and monitoring data related to hate crime and incitement to violence and hatred;

3.2. RIGHTS OF NATIONAL MINORITIES

In recent years, and particularly after the accession of Croatia to the EU, messages of intolerance and hatred have started to appear, even including demands to limit the rights of national minorities. In the year marking the 15th anniversary of the adoption of the Constitutional Act on the Rights of National Minorities (CARNM), which defines a wide range of rights, its full enforcement is still absent. Some of the stipulated institutes are not implemented, with no sanctions specified for failure to implement them. In some areas, such as cultural autonomy, a high degree of implementation has been reached, but there has been a setback in exercising the right to proportional representation of employees in public authorities. In addition, problems persist in the area of official and public use of minority languages and scripts, election and functioning of councils and representatives of national minorities, as well as access to the public media. Complaints were also received with regard to the use of the languages and scripts of national minorities in the field of education, and their underrepresentation in the executive and representative bodies of local and regional government units.

The Constitutional Act is still not fully implemented, but the adoption of Operational Programs for National Minorities represents a positive step that should contribute to improving the implementation of the existing and a better protection of the rights of national minorities in the future.

Accomplishing all stipulated rights is a big challenge for the society, partly due to an unfavourable social climate and the stereotypes surrounding some minorities. Notwithstanding the recommendations by the Advisory Committee on the Framework Convention for the Protection of National Minorities about the need to condemn nationalist and anti-minority rhetoric and promote inter-ethnic dialogue, reconciliation and respect of diversity, quick and unequivocal reactions that would have an effect on such negative attitudes were missing. On the contrary, a political mobilisation in the recent years has additionally reinforced the stereotypes, further complicating the application of certain minority rights. However, the adoption of the Operational Programs for National Minorities 2017-2020 represents a positive step forward that should contribute to improving the implementation of the existing and a better protection of the rights of national minorities in the future.

Representation of members of national minorities in state administrative bodies and the judiciary

'Could you please explain to me on what grounds and why the national minorities are given preference in civil service employment (on paper at least)? How are they disadvantaged in relation to 'pure-blooded' Croats (except for the traditional prejudices against the Roma who are, unfortunately, unlikely to compete for any job, particularly of this kind), unlike the disabled, who certainly are in an unenviable position in each aspect, or the war veterans (but not the fake ones, who definitely are too many), who had made sacrifices for this country? ... I have no intention to hurt or belittle anyone, regardless of their national descent, as I consider all people to be equal, but I do not understand why I feel underprivileged in my beloved Homeland for not being a member of

The CARNM guarantees the representation of members of national minorities in state administrative bodies and judicial bodies, taking into account their participation in the total population on the level that such bodies are formed, as well as their representation in the administrative bodies of cities, municipalities and counties. Members of national minorities are given preference in filling such vacancies, which is realised only if a member of a national minority who has applied for a vacancy has invoked the right to be given preference and achieved the best results in the application procedure, as this preference can in practice only be realised when they have equal results with another candidate who is not a member of a national minority. In addition, if adequate representation in the specific body has already been established, the preferential right shall not be realised. In the opinion of the national minority councils and CSOs included in the gap analysis 'Support for National Minority Councils on the Local Level' conducted under a project by the OHRRNM, the representation of members of the national minorities in public administration and the judiciary is the minority right that is respected the least.

The share of members of national minorities amongst employees in these public authorities still falls significantly short of their share in the total population in the RC, which stands at 7.67%. Employment plans, adopted in earlier years in order to reach 5.5% of representation, proved

OHRRNM AND MPA DATA ABOUT THE EMPLOYEES IN PUBLIC ADMINISTRATION AND PROFESSIONAL SERVICES AND OFFICES OF THE GOVERNMENT OF THE RC

Year	Total employees	Employees members of national minorities	%
2013	52,691	1853	3.51
2014	50,478	1762	3.49
2015	50,375	1713	3.40
2016	49,697	1689	3.40
2017	49,602	1658	3.34

completely ineffective. Even worse, since their adoption, the share of members of national minorities has dropped further, which raised doubts in members of the national minorities that such measures were only adopted to create an illusion of the RC meeting the requirements for completing the negotiations on EU membership, with no real ambitions to achieve them.

According to MPA data, as of 31 December 2017, 1658 members of the national minorities were employed in state administrative bodies and professional services and offices of the Government, which is 3.34% of the total number of employees, with no ministry reaching the representation corresponding to the proportion of the national minorities in the total population. Out of all employees in the state service, there were only eight members of the Roma national minority.

The share of members of national minorities amongst employees in the judiciary is 3.92%, with 3.23% of the judges and 4.56% of the state attorneys and their deputies.

Despite the fact that members of national minorities can only rarely realise their preferential employment in practice, and the clear data about their underrepresentation in the bodies where this preference is guaranteed, it most often only brings them stigma, as the public perceives them as being privileged in relation to the majority population.

MJ DATA ABOUT THE EMPLOYEES IN THE JUDICIARY		Total employees	Employees members of national minorities	%
Courts	Officials	1797	58	3.23
	Employees and trainees	6573	263	4.00
State attorney's offices	Officials	614	28	4.56
	Employees and trainees	1144	48	4.20
TOTAL		10,128	397	3.92

Members of national minorities can realise preferential employment in a more limited range of public authorities than Croatian war veterans and members of their families, persons with disabilities or civilians disabled in the war, and no misdemeanour liability of the employer is specified in the law for failing to apply the preferential employment of members of national minorities. At the same time, the limited scope of this preference is often not recognised not only by its critics, but also by members of national minorities, or even their representatives and heads of minority associations, which is obvious from the inquiries and complaints received from them. It is therefore necessary to insist on training civil servants working in human resources, as well as members of national minorities and their representatives.

The National Plan for Combating Discrimination 2016-2011 recognises the problem of underrepresentation of members of national minorities in public administration and the judiciary. However, the sole measure proposed is collecting information about their employment, to analyse its effects and consider the need for different or additional measures.

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

Since the level of use of the languages and scripts of national minorities on the local level to a large extent depends on dialogue, tolerance and mutual respect between the majority population and the national minorities constituting a significant share in the total population of a certain area, this results in big differences in the levels of application of the rights prescribed by the Act on the Use of the Languages and Scripts of National Minorities. While Italian or Hungarian, for instance, are in public use even in those local government units where the share of minority speakers is considerably lower than one third of the population, the Serbian language and the Cyrillic script are still marked with the stigma of crime and aggression. Findings of the survey 'Attitudes and Perceptions of the Croatian Public about National Minorities, Refugees and Migrants' conducted by the Centre for the Study of Ethnicity, Citizenship and Migration of the Zagreb Faculty of Political Science thus show that demands for bilingualism are seen as a provocation in one part of majority population, especially in the areas more significantly affected by the war, while for members of the Serb national minority this would represent a symbolic acknowledgement of their integration in the Croatian society.

While some minority languages are in public use even in those local government units where the share of minority speakers is considerably lower than one third of the population, the Serbian language and the Cyrillic script are still marked with the stigma of crime and aggression.

Although the CCRC has not yet judged on the March 2016 request by the Committee for Human Rights and Rights of National Minorities to assess the conformity with the Constitution and law of the amendments to the statute of the City of Vukovar, which were adopted without a previously requested opinion and approval from the political representative of the Serb national minority, the introduction of the Serbian language and Cyrillic script in the Vukovar public arena will mainly depend on mutual respect. As the introduction of bilingualism is not the cause, but rather just one of the problems, its resolution will require mutual willingness to resolve all open issues through dialogue.

Representatives of the Serb national minority stress that their members face pressure, harassment and insults in the use of IDs with information written in the Serbian language and Cyrillic script, sometimes by police officers, resulting in their reluctance to use bilingual documents. According to data by the OHRRNM, about 3000 IDs are issued annually in minority languages and scripts, the overwhelming majority to members of the Italian minority, with only around one hundred issued in the Serbian language and Cyrillic script.

Although the Government of the RC, in accordance with the CCCRC Ruling U-VIIR-4640/2014, submitted draft amendments to the Croatian Parliament in 2015 to establish a mechanism for cases in which cities and municipalities fail to meet their obligations from the Act on the Use of the Languages

and Scripts of National Minorities, the procedure of their adoption has been suspended, so there is still no mechanism, whose initiation was orderedd by the CCRC.

The 2016 recommendation by the Ombudswoman to allow members of national minorities to have the option of entering the child's surname in either male or female gender, depending on the sex of the child, was not taken into account in the adoption of the Personal Names Act in 2017. So we reiterate that members of national minorities have the right to use their first names and surnames in the minority language, which should be officially recognised. Lest they be forced to use the institute of personal name change to adjust the surname to the gender, they should be given a choice to enter the child's surname in male or female gender when entering the birth register. In the new Family Act, members of national minorities and their future spouses should also be given this possibility when entering marriage. That would show regard for a peculiarity of the Central European region, and the numerous minorities with the tradition of using two different surname forms depending on the gender, better defining the right to use names and surnames in minority languages and their official recognition, as suggested by the Framework Convention for the Protection of National Minorities.

Councils and representatives of national minorities

The recommendation from the last three reports has not yet been implemented, to give representatives of national minorities the status of not-for-profit legal entities, which would prevent enforcing payment from their personal bank accounts.

As the recommendation on the need to regulate the election of minority representatives by special legislation, as envisaged by the Local Elections Act, has been included in the Operational Programs for National Minorities, and is to be implemented in the 4th quarter of 2018, holding these elections together with local elections would increase the citizens' awareness, the number of polling stations, as well as voter turnout, which would give more legitimacy to both minority councils and representatives, with regard to minority voters and local government units.

Minority elections should be held together with local elections, and consideration should be given to whether minority councils need to be elected at all in cities and municipalities where members of a national minority constitute the majority of the population, and whether the current number of members of councils of national *minorities is really necessary.*

The practice shows that consideration should be given to whether minority councils need to be elected at all in the cities and municipalities where members of a national minority constitute the majority of the population, since they achieve adequate representation in such local government units on the basis of general suffrage. In addition, it should be considered whether the number of members of councils of national minorities as specified by the CARNM (10 per municipality, 15 per city, even 25 per county) is really necessary, or they can fulfil their role with a smaller number of councillors, which would facilitate their work and cut the costs.

Some local and county authorities still acknowledge councils and representatives of national minorities only formally, but sometimes they fail to be proactive themselves. Although funds for their work are ensured in the local government budgets, there are substantial differences in the levels of

support they are provided, and the CARNM does not specify the responsibilities and sanctions for those who fail to honour their obligations. For instance, one local government unit reimbursed members of minority councils for campaign costs during the 2015 elections only in 2017, following several requests from our side. Still, although financing councils and representatives of national minorities mostly depends on the capacities and/or goodwill of local or regional authorities, those with better material conditions for work, such as those in Zagreb, fulfil their purpose to a significant extent, with successful cooperation and results resting not only on partner relationship and mutual respect, but also quick and straightforward communication with the authorities. Cooperation with local and regional government units can greatly be improved by coordinations, as joint bodies representing all national minorities of a city, municipality or county.

As the gap analysis indicated, a part of councils and representative of national minorities, particularly on the municipal level, possess insufficient knowledge of the minority legislation, their own administrative tasks, and the methodology of reporting on the use of budget funds. In addition, local officials do not sufficiently understand or ignore the minority legislation. It is therefore necessary to proceed with training these stakeholders and reinforce the mechanism for supervising the implementation of the CARNM.

Access to the public media

The National Minority Council is dissatisfied with the quality and quantity of programmes intended for members of national minorities, and the way their role in the society is reported. Whilst the public radio mostly fulfils its programme-related obligations, the public television is still far from broadcasting content in minority languages. Although the *Prizma* programme is exceptionally professional and educational, and is broadcast again at a more favourable time in the schedule, minority TV content is usually ghettoised in two weekly programmes, with a very low profile in general programmes. The problem of a lack of journalist training in minority issues persists, which is why the pool of journalists specialising in this topic should be expanded.

Apart from this, the Council points out that news programs have criticized the way budget funds are allocated to minority associations, without contacting the Council to state its position, thereby denying viewers the right to impartial and comprehensive information that would help them to create their own opinions. In the wake of the most pronounced excesses against the *Novosti* weekly magazine, the general public was not appropriately sensitised about the negative effects of hate speech, was not made aware that members of national minorities, as taxpayers, also contribute to the budget funds allocated to them, and that the right to free, open and critical journalism is a value of the democratic society, which is discussed in the chapter on expression in the public area. This was confirmed by the dropping of the criminal charges against this magazine, filed for the alleged criminal offence of damaging the reputation of the RC, satirical expression being a form of the freedom of expression.

Education of members of national minorities

Education in the minority language plays a key part in nurturing minority identity and maintaining the ethnic and multicultural diversity of the RC. Along with developing quality school curricula, teaching staff must be provided, which can be a particular challenge in the case of small minorities.

The several years of inactivity of the Ministry of Science and Education (MSE) in regulating the status of a teacher, considered to be questionable whether she is properly trained in accordance with existing regulations, to teach the Ruthenian language and culture, illustrates the need for better care about minority education and its improvement. To resolve this situation and forestall similar ones, it is necessary for the MSE to adopt a new regulation on the type of required training of primary school teachers and professional associates adapted to the real-life possibilities for training teachers of minority languages and cultures.

The Council of the Serb National Minority of the Vukovar-Srijem County contacted the Ombudswoman because of the problems they encountered in registering schools as institutions teaching in the Serbian language and Cyrillic script, stressing that the schools of other national minorities were registered as institutions teaching in minority languages and scripts, while this right since the reintegration had been denied to the Serb minority. After the County, as the founding authority, first refused to approve the statutes whereby schools, in towns with a majority Serb population, would be established as institutions teaching in the Serbian language and Cyrillic script, in the last three years it has been turning down requests by the municipalities where such schools are located to transfer its founding rights on them. Although the Primary and Secondary Education Act (PSEA) specifies the obligation of counties to transfer the founding rights to cities and municipalities, if they so request, in cases of schools teaching in the languages and scripts of national minorities located in a local government unit where the equal official use of a minority language and script is prescribed, the Vukovar-Srijem County has been refusing to do that, not regarding them as schools teaching in a minority language and script, on the grounds of them not being registered as such in the court register.

'I have a master's degree in teaching the Croatian language and literature. I am Ruthenian and Ruthenian is my mother language. During the school year 2011/2012 I took up the job as a teacher of the Ruthenian language and culture. I passed a Ruthenian language exam at the Department of the Ruthenian Language and Literature of the Faculty of Philosophy in Novi Sad with excellence, enrolling the same year in the doctoral studies of the Ruthenian language, which are still ongoing. However, I have been working on fixed-term contracts for six years, with no end to it in sight, as calls for applications for hiring a Ruthenian language and culture teacher regularly require qualifications that cannot be obtained, not only in the RC, but anywhere else in the world. Back in 2012, the headmaster sent an official enquiry to the then Ministry of Science, Education and Sport, but no reply has ever been received. In October 2016, I sent a letter to the Ministry, and received a reply only following a request by the Office of the President, which offended me because, even though the Ministry has been aware of my situation for six years, they have not moved an inch. I have been the only candidate responding to the calls for applications during the past six years. I am the one caring about the future of the Ruthenian national minority, a minority with no state to call its own. I concern myself with keeping the Ruthenian language and culture alive by transferring the knowledge and traditions of my people to new generations of children, who come and gladly attend my classes.'

However, the County would be willing to do so provided that the MSE rules that the contentious provision refers to these schools, as well. Even though the MSE, in line with the Operational Programme for National Minorities, is supposed to initiate measures to implement the contentious PSEA provision, it maintains that a valid legal interpretation can only be given by the Croatian Parliament, refusing to offer its own interpretation. Moreover, the Committee for Human Rights and the Rights of National Minorities of the Croatian Parliament adopted a position in April 2016 that the interpretation according to which this refers only to those schools that are already registered as minority schools is unacceptable, and that it is the obligation of the Government of the RC to ensure the enforcement of the PSEA, since no sanctions are prescribed for failing to decide on the transfer of the founding rights.

Representation in representative bodies of LRGUs and the Croatian Parliament

'As it turns out, the Serbs are not entitled to the position of a Deputy Prefect of the Zadar County, or to 3 members of the County Assembly – the fact that the share of Serb voters is 8% of the total electorate is what...? Just a boring statistics? The same is with having a member in the Zadar City Council, where the share of Serbs in the electorate is about 4.36%...
To what intention was the provision of Article 20 (7) of the CARNM brought, according to which the right to representation in the representative and executive bodies should be based on the results of official census, with those results adjusted, prior to any election, to changes in the latest confirmed polling list? Wasn't this particular provision included in this law in order to allow adjustments in line with the actual situation, since a whole decade passes between two censuses?'

Before the last local elections, the number of minority representatives was not determined based on the recent changes in the electoral roll, as stipulated by the CARNM, but rather based on the last census, as stipulated by the Local Elections Act, in line with the MPA position about the Local Elections Act being a *lex specialis* and *lex posteriori* in relation to the CARNM, and that a correction of the number of members of national minorities stipulated by the CARNM is not feasible due to the legal amendments defining the electoral roll records. As the share of members of the Serb national minority in the total population of the Zadar County has significantly increased since the 2011 census, this position resulted in their underrepresentation in the county bodies.

Although the CCRC dismisses its competence to form an opinion of the compliance of one law against another, and although there are conflicting views among legal experts on the hierarchy between these two organic laws, from those about the CARNM being a *lex superior* in relation to the Local Elections Act, to those about them being two same-level pieces of legislation defining the same matter in two different ways, it is clear that the CARNM was disregarded in adopting the Local Elections Act, even though it should serve as a starting point for defining all national minority rights. Additionally, the legal amendments defining the electoral roll records, which make determining the

number of national minority voters unfeasible in practice, violated the CARNM, even though they can never be a basis for its derogation.

Besides, determining the number of members of representative bodies from the ranks of a particular national minority, calculated by multiplying the share of the minority in the total population of a local or regional government unit by the number of members of the representative body, and then rounding the result to the nearest whole number, leads to situations that the result of 1.965, for instance, grants the right to only one representative. The result should be rounded up or down in line with mathematical rules, like in other types of elections.

The regulations governing referendums need to be defined in more detail, including with regard to issues that can be the subject of a referendum.

In recent years, the model according to which members of national minorities have eight guaranteed seats in the Croatian Parliament has often been criticised in the political discourse. In 2017, collecting signatures was announced for a referendum aiming at abolishing or amending the present system of electing minority MPs. Although the existing regulations do not expressly define issues that can be decided on a referendum, human rights, including the rights of national minority, should be exempted from such model of deciding. As the election of minority MPs is regulated by organic laws (CARNM and the Act on Electing Members of the Croatian Parliament), their derogation by means of a referendum, for the initiation of which it suffices to collect the signatures of 10% of voters, and which is decided by a simple majority of the ballots cast, regardless of the turnout, would represent a violation of the Constitution, which defines the RC as a community of free and equal citizens, members of the Croatian nation and national minorities.

The regulations governing referendums need to be defined in more detail, including with regard to issues that can be the subject of one. As for electing minority representatives to the Croatian Parliament, we repeat the recommendation that the proposal should be considered to introduce a special minority ballot that would include both the general and minority lists. That would allow members of national minorities to exercise the right granted by the electoral law on their own initiative, without having to state in front of all present at the polling station if they want to vote in the general or special constituency, which brought them in uncomfortable situations in many communities and infringed on their privacy or their right to vote.

The freedom of expressing minority affiliation

Notwithstanding the MPA position that the nationality entered at first registration in the births register may not be changed, we believe that the State Registers Act allows this information to be changed. Along with listing entries and notes that may be changed in the births register, this law also states 'other changes of information entered in the state births register', which therefore includes information about the nationality entered at first registration. It must be possible to change information about one's nationality, since belonging to a particular nation is a subjective individual feeling, while extracts from state registers in practice represent a way of proving national affiliation resulting in a possibility to realise certain rights.

In conclusion, even though the national minorities have a wide range of normatively regulated rights, some of them were barely or not at all realised, with the strongest opposition to them on the local level. Given the procedure required to adopt the Constitutional Act, its amendments can hardly be expected. Even so, it would be wise to create a political cohesion in order to remove its deficiencies. It is the responsibility of politicians on all levels to deal with open issues, particularly in light of the fact that treatment of the minority by the majority is one of the most important criteria of the degree of a society's democracy.

RECOMMENDATIONS:

29. To the Government of the Republic of Croatia, to react, promptly and unambiguously, to the occurrences of nationalist and anti-minority rhetoric, and to promote inter-ethnic dialogue, reconciliation and respect for diversity;
30. To the Office for Human Rights and Rights of National Minorities, to continue training staff working in human resources, as well as members of the national minorities and their representatives, on the right to priority in employment under the CARNM;
31. To the Government of the Republic of Croatia and the Ministry of Public Administration, to draw up and send into parliamentary procedure draft amendments to the Act on the Official Use of the Language and Scripts of National Minorities, ensuring the exercise of the right to official and public use of a minority language and script in cases where units of local government are not meeting their obligations;
32. To the Ministry of Demographics, Family, Youth and Social Policy and the Ministry of Public Administration, to draft the legislative amendments required to allow members of the national minorities and their spouses, when entering names in registers of births and marriages, to select and register surnames in male or female gender;
33. To the Ministry of Public Administration and the Ministry of Finance, to draft the legislative amendments required to grant representatives of the national minorities the status of not-for-profit legal persons with a separate OIB;
34. To the Ministry of Public Administration, to draft a special bill on electing members of national minority councils and representatives, as specified by the Local Elections Act, which process would take place in parallel with local elections;
35. To the Ministry of Public Administration and the Office for Human Rights and Rights of National Minorities, to draft the legislative amendments required to strengthen the mechanisms of supervising the implementation of the CARNM by LRGUs, and define support to minority councils and representatives in those LRGUs that do not have the sufficient financial, technical, and/or human capacities;
36. To the Croatian Radiotelevision, to train its editors and journalists, on a regular basis, in minority-related issues, fill the ranks of journalists focusing solely on minority topics, and increase the share of minority-related issues in the general programme;
37. To the Ministry of Science and Education, to urgently pass a new Ordinance on the required qualifications of primary school teachers and professional associates aligned with the actual possibilities for obtaining minority language and culture degrees;

38. To the Ministry of Science and Education, to provide an opinion whether, under the Education Act, the Vukovar-Srijem County is obliged to transfer school founding rights to those municipalities that so request;
39. To the Government of the Republic of Croatia and the Ministry of Public Administration, to initiate amendments to the regulations governing referendums, to preclude deciding on issues related to human rights, including the rights of national minorities, from such type of decision making;
40. To the State Electoral Commission, to consider the proposal to allow members of the national minorities to vote, when electing deputies to the Croatian Parliament, on ballots containing both the general constituency list and the minority list;
41. To the Ministry of Public Administration, to draft the legislative amendments necessary to align provisions of the CARNM with the Local Elections Act determining the number of representatives of national minorities relevant for defining their numbers in the representative bodies;
42. To the Ministry of Public Administration, to draft legislative amendments to the Local Elections Act referring to calculating the number of members of representative bodies from the ranks of national minorities, in order to enable rounding decimal numbers in line with mathematical rules, as in other types of elections;
43. To the Ministry of Public Administration and state administrative offices, to allow changes of the information on national affiliation in the register of births;

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

Race, ethnicity or colour, and national origin are the most common grounds in the complaints of discrimination the Ombudswoman received in 2017. Persons subjected to discrimination due to one of these characteristics are typically denied the right to equally participate in some form of social life, such as employment or access to services, for instance. This is often caused by prejudice and stereotypes, based on which a person is unduly attributed all the undesirable characteristics associated with an entire group.

A survey of the attitudes of primary school pupils in Varaždin showed that, in a school attended by both Roma and Croatian children, 57.4% of respondents were open to having a Roma child as a friend, compared to only 17.3% of respondents in a school not attended by Roma children.

According to the already mentioned survey by the Ombudswoman about the prevalence of prejudice and stereotypes from the late 2016, marrying a person of the Serb nationality or another skin colour, for example, remains unacceptable for about a third of the citizens of the RC. Somewhat over a quarter believe that the Roma working as service providers would turn off many clients, while around a third think that asylum seekers should not be given employment.

To mitigate such exclusive views that can lead to discrimination, along with providing education about common values and respecting diversity, it is also important to experience diversity in everyday life. For example, a survey of the attitudes of primary school pupils in Varaždin showed that, in a school

attended by both Roma and Croatian children, 57.4% of respondents were open to having a Roma child as a friend, compared to only 17.3% of respondents in a school not attended by Roma children. Therefore, the Ombudswoman launched a comprehensive media campaign in 2017 named 'Differences are not obstacles. For a society free of discrimination', focused on sending a clear message that racial or ethnic background, or any other characteristics that cause someone to be perceived as 'different', must not be obstacles to exercising rights and equal participation in the society.

Members of the Serb national minority

'It's the Serb national minority that's left out the most, definitely, every child knows it, just ask people in the street later. This is clear from writings on the walls, not to mention the state level... You are better off hiding the fact that you belong to the Serb national minority. I can't say it's like that everywhere, but... this is quite common and, unfortunately... I think the Serbs in Croatia are second-class citizens.'

Source: Public Attitudes and Perceptions about National Minorities, Refugees and Migrants, Report under the project Racism and Xenophobia: For Refugee and Ethnic Equality, IPA RAX FREE 20121

Unfortunately, a greater degree of social distance and prejudice, even hatred, is still present in relation to members of the Serb national minority. They are often collectively equated with aggressors responsible for the war in Croatia and exposed to insults, public denunciations because of their minority rights, incitement to violence, or even physical assaults, which is certainly the most concerning. According to information by the Serb National Council (SNC), the number of incidents involving insults and threats directed against Serbs and Serb institutions in the RC had increased. After several years of improvement in the relations between the Serb minority and the majority nation, their deterioration is evident, with occurrences of public threats and incidents. More details on the criminal and other aspects of these attacks are provided in the chapter on hate crime. The instance from August 2017 is particularly alarming, when two women were suspected of arson in the middle of the fire season near a predominantly Serb-populated village, motivated by 'utter revulsion against the Serbs' caused by their burning down of Croatian houses during the Homeland War. The UNHCR also expressed concerns due to the growing intolerance against members of the Serb national minority in 2016 and 2017, pointing at the hostile mood apparent in the hate speech, the media and the public use of fascist symbols, emphasising the erection of a memorial panel with the fascist salute 'For homeland – ready' ('Za dom spremni') in the vicinity of the Jasenovac Memorial Site, and the burning down of the Serb minority weekly newsmagazine *Novosti*.

In addition to the hostile mood and individual complaints to the Ombudswoman, SCOs have been pointing at the exposure of members of the Serb national minority to discrimination in the calculation and payment of pensions, as well as the conduct of the police, judicial and administrative bodies. The

MI passes decisions on departure from residence of Croatian citizens of the Serb national origin on the ground of their spending a certain period of the year outside the RC, even though this does not constitute a valid reason for departure from residence, so much more because some of them are still waiting to be provided housing or expecting the reconstruction of their war-damaged houses. According to available information, a total of 269,516 Croatian citizens, of which 152,974 Croats, 61,624 persons of unknown nationality, 40,103 Serbs, 3638 Bosniaks, 2236 Albanians and 1492 Roma, were removed from the electoral roll, and thus from the register of residence, between the adoption of the Residence Act in 2012 and April 2017. In correlation with the 2011 census, 3.95% Croats and 21.5% Serbs were removed from the register of residence. More details on ex officio departures from residence are provided in the chapter on status rights, but these figures, and their disproportion in terms of national affiliation, give grounds for concern.

CSOs, heads of some local government units, as well as representatives and members of the Serb national minority themselves, have for years been drawing attention to problems with the supply of power and water in the areas predominantly populated by Serb returnees, especially in more remote, rural and underdeveloped communities, which we have reported on and made recommendations several times. Available data show that 126 villages and hamlets need to be (re)connected to the electrical grid, with over 500 returnee households still without power, even though they had it before the war.

The complaints received in 2017 and the visits to some predominantly Serb communities clearly suggest a feeling among the Serb population of deliberate neglect of their sparsely populated villages by the local authorities. We therefore welcome the adoption of Operational Programmes for National Minorities 2017-2020, which include an evaluation of the efficiency of the present legal and implementing mechanisms for the integration of the Serb national minority in the Croatian society developed after the Homeland War and the Peaceful Reintegration of Eastern Slavonia, as well as developing new and modern projects for integration, especially of younger generations.

Members of the Roma national minority

Life expectancy of the Roma is very low – whereas the share of persons over 65 in the majority population is 16.8%, only 1.4% of the Roma in the RC are older than 65. Their poverty certainly contributes to this, as 40% of the Roma do not have the means to buy good quality food, such as meat, or pay for the utilities, which poses a serious danger to their health.

Although owning a car may seem an unnecessary luxury or wastefulness, for most Roma families this is an essential need, with Roma communities typically separated and isolated from public transportation, which further exacerbates their poverty and social distance. The Ombudswoman recommended in the 2015 report to the Croatian Parliament that the Ministry of Demographics, Family, Youth and Social Policy (MDFYSP) should amend the potentially discriminatory provisions of the Social Welfare Act (SWA), which prevent beneficiaries of the social welfare system from possessing or using someone else's vehicle, unless they are isolated from public transportation, as this considerably worsens the position of the poorest groups of population, especially families with many children, which is typical of the Roma. By the same token, police officers have on several occasions

stopped only cars with Roma drivers, and provided information about them to the competent social welfare centre (SWC), which then revoked their social welfare benefits due to possession of a vehicle, often leaving entire families without any income, thereby aggravating the negative effects of these provisions. The criteria for defining a lack of public transportation are unclear and inconsistent in different parts of the country, which results in unequal treatment in relation to the ethnicity and national origin of social welfare beneficiaries.

Although the Government of the RC stated in its opinion on the 2015 Report by the Ombudswoman that it would consider its recommendations for the next amendments of the SWA, and despite the fact that we actually proposed them during the public consultation on the draft Amendments to the SWA, they were still not included. A clarification by the MDFYSP that comprehensive amendments to the SWA are planned, as part of which all relevant proposals for better and more overarching legislative solutions are to be considered, does not sufficiently guarantee a resolution of this problem within reasonable time.

Only 1.4% of the Roma in Croatia are older than 65, and 40% of the Roma do not have the means to buy good quality food, such as meat, or pay for the utilities.

The basic document for improving Roma position in the RC is the National Strategy for Roma Inclusion 2013-2020, and the Action Plan for its implementation, which expired at the end of 2015, while a new one has not been adopted. The commission for monitoring the implementation of the National Strategy was not active from the autumn of 2015 to November 2017. Although all authorities, according to available information, regularly implement measures and activities aimed at improving the position of members of the Roma national minority, the same problems persist: segregation in education, too few students in four-year secondary schools resulting in a small number of students continuing their education and, consequently, few Roma university students, limited progress in employment, unavailability of data on health care, and numerous problems related to housing.

With regard to this, the new draft Action Plan for the Implementation of the Strategy of Education, Science and Technology 2018-2020 is encouraging, as it includes five measures as part of the goal to provide support to children and students from the Roma national minority, to be put into effect in 2018 and 2019, envisaging the introduction of a curriculum for the Roma language and culture in the school year 2019/2020, as well.

'I enrolled in a re-training course for nurses at a vocational training centre in 2015. On the day of enrolment, I was advised to contact the Roma council and ask them to request the Government to grant me some funds to pay for my tuition. The school sent a letter to the Office of the Government, which replied that they expected to be notified each time I complete a school year, after which my tuition would be paid. Until this day (13 October 2017), nothing has been resolved. The school filed for enforcement, of course, because nothing has been paid... I am going to end this hassle now, which I can't bear any more, mentally and physically.'

In the course of 2017, the costs of schooling/retraining of members of the Roma national minority were not covered, since the Commission granting approvals to allocating financial support has not met since September 2015. As a result, educational institutions charged the students for the costs of retraining, thus producing a notable deterrent effect. The MSE gives the scholarships of HRK 500.00 to Roma students, with HRK 300.00 given to those that did not pass that year and have changed the programme. However, if they have not changed the programme, they lose the scholarship entirely, which many are not aware of. As scholarships are indispensable for many Roma students, they typically drop out of school altogether after losing them, going back into the vicious circle of the lack of education, unemployment and poverty. It remains unclear why students who repeat the year cannot retain at least a part of the scholarship, and why a change of school programme ensures the possibility to retain the scholarship, while remaining in the same programme, whose curriculum the student has already attended, does not allow that.

Just how difficult it is to improve the quality of life is demonstrated by an example of two Roma families from Brod na Kupi, whose living conditions we had described in the previous report. Despite our recommendation, their situation has not improved. Although the City of Delnice adopted the Action Plan for the Implementation of the National Strategy for Roma Inclusion 2017-2020, which shows their good will to improve their position, we do not know if the recommendations have been implemented. According to available information, the city failed to implement short-term measures such as providing an adequate number of containers and the availability of drinking water and electricity. As for long-term measures aimed at providing appropriate housing, one family moved their containers in 2018 to an area with a possibility of connecting to drinking water and electricity, but they have not been connected yet, while several families live on locations with no drinking water.

Housing of the Roma causes controversy and resistance even in the planning stages. Some Roma are opposed to creating new 'ghettos', while the local population does not want a 'Roma ghetto' in their neighbourhood.

Apart from these examples, housing of the Roma causes controversy and resistance even in the planning stages. In 2017, information emerged in the media about a plan of the City of Zagreb to move several Roma families into the newly-built neighbourhood of Sveta Klara. A number of residents of this and the surrounding neighbourhoods took issue with this idea, itself unacceptable to a part of the Roma population, too. Some Roma were opposed to the creation of a new 'ghetto', while the local population said that they did not want a 'Roma ghetto' in their neighbourhood. The City of Zagreb has outlined long-term plans to develop neighbourhoods for residents with increased social needs, but they are not likely to be fulfilled soon.

There are many opposing views of the Roma, members of the majority population, experts and bodies charged with developing strategies and implementing social housing projects about the best solutions for improving housing conditions of the Roma and other socially disadvantaged members of the society. Yet there is no general regulation on social housing in the RC, which hinders understanding the whole area, with more details provided in the chapter on housing.

The intentions of the Government of the RC, articulated in the Operational Programmes for National Minorities, about reviewing and implementing the National Strategy for Roma Inclusion and improving the work of the Commission for Monitoring the Implementation of the National Strategy

are positive, with a particular emphasis on specific measures and targets in the fields of education, social integration, employment and housing. But their implementation, especially the execution deadlines, remain questionable.

In 2017, the Ombudswoman identified discrimination in actions taken by SWC Rijeka, Delnice local office, in relation to which complaints by several Roma were received. This local office put a number of Roma families as persons with a low level of education and information in a disadvantageous position, on account of their ethnic origin, in relation to other beneficiaries. The staff failed to adequately inform the Roma families in question, and processed the realisation of their rights in an untimely manner. In addition, when assistance was provided, it was with much delay and reluctance, even though the staff were well aware that they were dealing with illiterate or very poorly educated persons with no access to information. However, the Ombudswoman receives complaints against SWC staff from the whole RC. For example, the president of a Council of the Roma National Minority witnessed a social worker's hostile and uncivil treatment of the Roma, who are illiterate and cannot understand regulations, which resulted in altercations with the Roma beneficiaries of social services. Complaints to the SWC director failed to bring improvement, with lingering fears that any future complaints would worsen the relations even further.

The MDFSPY also reported citizens' complaints about the treatment by SWC professionals and directors, with five cases where it was the Roma who brought claims of possible discrimination. Even though this is a small number of complaints, and with none in the earlier period, according to MDFSPY data, it indicates that there has either been an increase of discrimination against the Roma, or they are better informed about protection from discrimination and dare to complain against SWC staff, even though they often depend on them. When repeated complaints of unequal treatment of guaranteed minimum benefit (GMB) beneficiaries using someone else's vehicle are added to this, the issue can be raised of CWS capacities, the availability of support and education their employees need, but also of supervising their professional operations.

According to UNHCR data, there were 2873 persons without citizenship or in danger of losing their citizenship in the RC in 2016, about 60% of them Roma. Many possess no identity documents since they never requested their issuance or they had been issued in Yugoslavia and are not valid any more. As many descend from Serbia, Kosovo and Macedonia, the Foreigners Act (FA), which stipulates obtaining valid travel documents in order to define one's status in the RC, thus creates an insurmountable administrative obstacle for them, or incurs financial costs they are incapable of covering. Additionally, cooperation of competent bodies in the region of Southeastern Europe in identifying and documenting persons originating from this area is not particularly efficient, without proper and timely exchange of information providing evidence of births, registrations of permanent and temporary residence, and admissions to citizenship.

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

A Gallup survey from August 2017 put the RC among the countries whose citizens are least friendly to migrants and refugees, with only Estonia, the Czech Republic, Latvia, Israel, Slovakia, Serbia, Hungary,

Montenegro and Macedonia ranking lower out of the total of 139 countries. Most of these migrant-unfriendly countries are located on the so-called Balkan migrant route, that stretched from Greece to Germany in 2015. 40% of the respondents did not want Syrians in the RC, while 39% believed the country could accept some of them. These figures illustrate the closed nature of the Croatian society and the current policy towards migrants and refugees, however the manner and style of media reporting must also be taken into account, as these people are typically represented as only migrants or refugees, as if this were their profession or the sole characteristic worth mentioning, thus depriving them of humanity and dignity. Joint efforts must be made to change this dominant narrative, replace 'crisis' with 'opportunities', and see 'human rivers' as individuals with their own life stories, hopes and abilities. The website www.irh.hr dedicated to integration in the RC can be stated as a good example, maintained by the CSO 'MI' – Split, with financial support and collaboration with the UNHCR Croatia.

Gallup survey results describe current policies towards migrants and refugees, while the media typically presents them as only migrants or refugees, as if this were their profession or the sole characteristic worth mentioning, thus depriving them of humanity and dignity.

Since 2013, the Ombudswoman has pointed in the reports to the Croatian Parliament at the negative attitude in the RC towards economic migrants, foreigners coming to the country to study, asylum seekers and immigrants in general, with citizens demonstrating a high degree of xenophobia, which is then reflected in instances of discrimination. However, the Migration Policy 2013-2013 has not been updated, leaving many migration-related issues in the RC open, more so because the RC still has no separate integration policy. As positive as the change of the EU Policy Framework for Migrant Integration is, it should still be accompanied by specific integration policies in the RC, since the integration of migrants is within the competence of member states, and the 2007 Lisbon Treaty gives the EU institutions a limited mandate to provide incentive and support to member states in implementing specific national integration measures.

Although the Action Plan for integration of persons who have been granted international protection 2017-2019 contains specific, useful and measurable tools that can improve their integration, it focuses on a very small group of people, as only 208 applications were granted in the RC in 2017. The number of persons without citizenship meeting the criteria for international protection who have been transferred to the RC is not particularly big, either, a total of 40 in 2017. Since the RC committed to admitting up to 100 persons in 2018, the number of those who are granted protection is not expected to grow significantly. At the same time, the number of applicants for international protection exceeds the number of granted applications nine times. As they, too, are guaranteed certain rights under the International and Temporary Protection Act, integration policies are required that would include them, as well.

Organisations directly involved with the integration of refugees, migrants, applicants for international protection and those who have already been granted protection have warned that the system of providing international protection became inaccessible for many in 2017, and that the integration framework that was supposed to begin with the new Action Plan is inadequate. The integration framework disregards not only many vulnerable people awaiting a decision on their application for international protection, but also those whose application has been rejected, and they remain in the RC as undocumented migrants. It is wrong to assume that integration starts at the moment

international protection is granted; it starts at the moment a person enters the country where they are going to apply for it. Integration policies and regulations must be based on the principles of solidarity and human rights, especially at a time of global refugee and migrant movements.

The Action Plan is almost entirely focused on social rights, but refugees should not be treated as 'social cases', and realising rights from the social welfare system should only serve as a short-term support on the path of inclusion in the society. Data by CSOs and legal persons involved with the integration processes show the levels of their knowledge and commitment, and to capabilities for implementing long-term and all-encompassing activities focused on quicker and more effective inclusion of foreigners into the Croatian society. These capacities should be utilised better. The Croatian Red Cross (CRC) alone, for instance, involved 230 beneficiaries in the integration programme in 2017.

It is wrong to assume that integration starts at the moment international protection is granted; it starts at the moment a person enters the country where they are going to apply for it. Integration policies and regulations must be based on the principles of solidarity and human rights, especially at a time of global refugee and migrant movements.

Notwithstanding the knowledge and activities of CSOs, numerous difficulties in the integration remain. Despite having the official status in the RC, and the identification documents, it is very difficult for those granted international protection to find jobs. 124 persons who had been granted asylum and 3 under subsidiary protection were registered at the CES in the first half of 2017, while only 36 of those granted asylum and 1 person under subsidiary protection were employed, mainly on seasonal or temporary jobs. Persons with university education face the steep costs of having to pay for nostrification, and to be issued licences by professional chambers. For example, dentists, even they have been granted asylum, have to pay between HRK 18,000 and HRK 45,000 for nostrification and recognition of their qualifications. This vulnerable group should therefore be exempted from paying administrative and other charges in the procedures of recognising their professions and degrees of qualification, especially for occupations in short supply in the RC.

Even those applicants for international protection who have the right to work, through a certificate issued by the MI, after waiting for nine months for their application to be processed, encounter various obstacles to finding work. For instance, applicants who do not possess identification documents from the country of origin cannot be employed because the MI certificate is not an identification document. Even if they do have it, it is not always accepted by the Tax Administration as it does not have the Personal Identification Number (OIB), or when opening a current account in the bank. The Ombudswoman acted several times in 2017 on the complaints from applicants who had faced problems in relation to their ethnicity in using goods and services in the banking sector and in money transfer services. As a result, several companies have changed their business practices and ensured the availability of their services with an identification document issued to persons under international protection. We therefore believe that recognising the MI certificate, as a temporary identification document at least, would greatly facilitate applicants' entry to the labour market, as well as their access to goods and services, more so given the fact that 7279 permits for residence and work were issued to foreigners in 2017, in line with the annual quota, and that the need for workforce exists.

Inclusion in the school system represents another challenge. In 2017, four applicants for international protection were admitted in pre-school education, 40 in primary, and four in secondary education. Children wait for up to six months to be enrolled in preparatory courses of the Croatian language lasting 70 classes, which is not enough, as they come from areas where the Latin script is not used or from other language families, and it takes longer for them to learn Croatian. An additional problem is their lack of the OIB, normally held by Croatian citizens and foreigners living or residing in the RC, and not by children asylum seekers whose parents do not have identification documents, but some other type of identification number that cannot be entered into the e-Register in the same way as the OIB, so that they cannot be formally admitted to school.

After June 2017 and the 70 initial classes organised in primary and secondary schools and public open universities, the Croatian language course for persons under international protection is not being conducted, again.

The Croatian language course for persons under international protection is not being conducted, again. After June 2017 and the 70 initial classes organised in primary and secondary schools and public open universities, this course is not taught any more. A public procurement procedure has been going on for six months to organise a new cycle, with students waiting for months to continue the course after the initial 70 classes, which is damaging for their motivation and the level of their knowledge.

In 2017, two applicants granted asylum continued their education at the Zagreb University free of charge, under the same conditions as Croatian citizens, since they had proof of completed secondary education. On the other hand, the International and Temporary Protection Act specifies the right of asylum seekers to free primary and secondary education, but not the possibility to attend/continue higher education, so that one applicant's scholarship and enrolment in the Zagreb University was financed by a CSO. As regulations covering higher education grant asylum seekers free studies if universities, polytechnics and colleges sign contracts with local government units on subsidising their participation in the scholarship, such contracts should be concluded.

Persons granted international protection encounter problems in finding housing, since the competent authorities often fail to find proper housing for them, resulting in them not being provided accommodation outside reception centres.

Positive steps have been noted in the social welfare system, as professionals for working with persons under international protection were designated in all 80 SWCs and 38 local offices, which improved horizontal communication and the level of staff expertise and sensitivity about the migration issue.

Asylum seekers' access to health care is difficult, too, including emergency medical help and necessary treatment of diseases and serious mental disorders. This in practice means that, if a serious illness is suspected, patients are referred to laboratory tests or specialist examinations only in cases of serious illnesses that have already been diagnosed. In addition, necessary treatment does not include the full range of primary health care, children health care or pre- and post-natal care, which is

particularly worrying in the context of a survey[6] conducted by an international CSO indicating the presence of serious and chronic illnesses and pregnancies in the applicants deported from Austria, Germany and Switzerland. Besides, the applicant population suffers to a great extent from headache, anxiety, insomnia, poor appetite, and abdominal pain, mostly of psychosomatic nature. Around 80% of the applicants placed at the Zagreb reception centre are at risk of developing mental distress, with registered cases of acute psychosis, post-natal depression and attempted suicide. Their psychological support is still insufficiently accessible, due to a limited number of available experts and interpreters.

Positive steps have been noted in the social welfare system, as professionals for working with persons under international protection were designated in all 80 SWCs and 38 local offices, which improved horizontal communication and the level of staff expertise and sensitivity about the migration issue.

Such persons will soon appear in the RC who have been granted international protection, but who, due to an expiry of the two year period, will no more have the right to subsidised housing or social benefit. If they do not manage to find jobs and salaries to live from, as these are people who typically have no established social networks to help them out when they find themselves jobless and with no income, they can even get in danger of becoming undocumented migrants not meeting the conditions for residence in the RC. We therefore draw attention to the European Commission against Racism and Intolerance (ERCI) general policy recommendation no. 16, specifying that persons with the status of undocumented migrants must be provided access to education, health care, social welfare and support, work protection and justice under the same conditions as other citizens. To this end, the state must establish a so-called 'firewall' system, which would prevent the state and the private sector from sharing information about undocumented migrants with the immigration control and protection authorities.

RECOMMENDATIONS:

44. To the Central State Office for Reconstruction and Housing Care, the Ministry of Regional Development and European Union Funds and HEP, to act more intensively and with adequate financial means to resolve the problem of (re)connecting to the power grid the remaining electricity consumers in the war-affected areas;
45. To the Ministry for Demographics, Family, Youth and Social Policy, to by the end of 2018 draft necessary amendments to the potentially discriminatory provisions of the Social Welfare Act preventing beneficiaries of the social welfare system from possessing their own or using someone else's vehicle, and to harmonise the criteria for determining isolation from public transportation in all parts of the country, to avoid unequal treatment related to the ethnicity and national descent of beneficiaries;
46. To the Office for Human Rights and Rights of National Minorities, to adopt an Action Plan in 2018 for the implementation of the National Roma Inclusion Strategy 2015-2020;

[6] Médecins du Monde Belgique, with UNICEF office for Croatia, Physical and mental health needs of asylum seekers in Croatia with a special focus on (pregnant) women and children, December 2017

47. To the Ministry of Science and Education, to consider the efficiency of, and, if necessary, change the practice whereby Roma students repeating a grade, unless they change the programme, lose their scholarships;
48. To the Ministry for Demography, Family, Youth and Social Policy, to implement measures to develop the capacities of the staff of social welfare centres, and raise the availability of support, training and supervision of their professional work;
49. To the Office for Human Rights and Rights of National Minorities, to also include applicants for international protection in the Action Plan for the integration of persons granted international protection 2017-2019, and to implement measures for the adoption of a more comprehensive foreigners' integration policy;
50. To the Ministry of Science and Education, to exempt persons granted asylum, especially those whose occupation is in demand, from the obligation to pay administrative and other fees in procedures for recognising foreign professions and qualification levels;
51. To the Ministry of the Interior, to include work permits of applicants for international protection in the category of (temporary) identification documents;
52. To the Ministry of Science and Education and the Ministry of the Interior, to allow the entry of children asylum seekers whose parents have no identification documents in the e-Register;
53. To the Ministry of Science and Education, to allocate adequate financial means to ensure continuous courses of the Croatian language for persons under international protection;
54. To the Ministry of Science and Education, to sign contracts, in line with the general acts of universities, polytechnics or colleges, on subsidising the participation in tuition paid by regular students, applicants for international protection;

3.4. RECONSTRUCTION AND PROVISION OF HOUSING

'My father is still in exile, as he has nowhere to return to. The enclosed documents indisputably prove that we tried to get a replacement property on the territory of the Split-Dalmatia County, and that we also tried to start building a house with the contractor selected by the agency in charge of reconstructing houses destroyed in terrorist acts. My mother and father would be content with just a small flat in which to spend what little life they are left with close to their daughter and grandchildren. As I have stated several times, we are ready to accept any solution, be it a flat or building a house, but on the territory of the Split-Dalmatia County, since my father had lived all his life on the territory of this county.'

The course of housing provision and difficulties in realising and exercising rights

A considerable number of applications for the provision of housing was submitted to the Central State Office for Reconstruction and Housing Care (CSORHC) in 2017, and acting upon such

applications intensified in relation to 2016. According to CSORHC figures, there were a total of 8835 applications for the provision of housing at the beginning of 2017 pursuant to the Act on Areas of Special State Concern (AASSC) or the Regulation on Determining the Status of Former Holders of Protected Tenancy and their Family Members and the Conditions and Manner of their Housing Care. Of this number, 2358 applications were related to former protected tenancy holders, and 6477 to other beneficiaries provided housing care according to the lists of priorities for the current year. In comparison with the year before, with a total of 9199 applications, the number had dropped by 364, which points at a modest, yet still insufficient progress.

The total number of beneficiaries provided housing care in accordance with the priority lists is bigger than in 2016, due to them being better informed and after the amendments to the Regulation on the Criteria for Scoring Applications for the Provision of Housing, which increased certain scoring criteria for realising the right to the provision of housing, in particular of Croatian war veterans, disabled veterans, and members of the Croatian Defence Council (CDC) and their family members. Among other applications, the most referred to the provision of housing through donating material for building or the reconstruction of family homes on construction land owned by the applicant, of which there were 3390, or 52.34%, followed by 2697, or 41.64%, applications for housing through renting habitable state-owned housing units. 254, or 3.92%, were related to the provision of housing by allocating state-owned construction land and building material for building family homes, while 136, or 2.1%, included renting damaged state-owned family homes and donating building material, where the interest was the least.

The total number of beneficiaries provided housing care in accordance with the priority lists is bigger than in 2016, due to them being better informed and the amendments to the Regulation on the Criteria for Scoring Applications for the Provision of Housing, which increased certain scoring criteria for realising the right to the provision of housing, in particular of Croatian war veterans, disabled veterans, and members of the Croatian Defence Council and their family members.

In 2017, the adoption of 538 decisions on donating building material was planned, with 481 actually rendered. The adoption of 326 decisions on leasing family houses and apartments owned by the RC on the areas of special state concern was planned, with 257 rendered. Most applications were resolved positively, with unresolved ones carried over to the next calendar year.

The reason for the large number of unresolved cases by other beneficiaries is the small number of available housing units, because of which many applicants on the priority lists cannot realise this right. Although the CSORHC put additional efforts in 2017 to secure and increase available funds for reconstruction and housing case, with regard to the increase in the number of applications, the recommendation to ensure additional funding and housing units for the beneficiaries provided housing by means of the priority lists remains important.

Intensifying the proceedings has been more significant in the cases of former holders of tenancy rights, as the number of unresolved cases dropped from 2358 at the end of 2016 to 1098 at the end of 2017, or by 1260. However, of these 1260 cases, in only 108, or 8.57%, decisions were rendered granting the realisation of rights, while 1152 applications, or 91.43%, were rejected or resolved in another way, having been either dropped or suspended.

To resolve the remaining backlogged cases more promptly, the CSORHC launched a positive initiative to supervise the efficiency of the work of state administration offices on a monthly basis. In eight offices, a considerable number of unresolved cases were found in the course of supervision, prompting the CSORHC to specify measures to increase the efficiency of their work.

The trend continued of the largest number of complaints to the Ombudswoman submitted about the duration of proceedings, both by first-instance bodies and during the appeals procedure before the CSORHC, as some have been going on for over 10 years since an application was lodged, like the one from 2004 that has still not been resolved. As the CSORHC stated in December 2017, this problem is caused by a lack of appropriate housing units, and the applicant was notified that the CSORHC, in cooperation with the Agency for Mediation in Real Property Transactions (AMRPT), would try to resolve the case in 2018.

Protracted procedures for the provision of housing, and the resulting legal insecurity for clients, are certainly caused by numerous amendments to the AASSC, too. However, its consolidated text, which should facilitate its application, has not been drafted yet. According to the plan of normative activities of the Government of the RC, drafting a new Act on the Provision of Housing in the Areas Receiving State Support, to replace the present AASSC, had been planned for 2017, but was postponed for the beginning of 2018.

The new legislation plans to simplify the way the right to housing provision is realised, shorten some of the deadlines, reduce the number of documents applicants are required to enclose, distribute the financial burden between the state and local government unit budgets, and enhance interdepartmental cooperation, to give additional impetus to the provision of housing in areas receiving state support, and thus encourage and improve demographic development. More rational and efficient management of the housing fund is foreseen, by specifying in detail the obligations of the tenant and the solidary responsibilities of the beneficiaries and their family members for the rent and damage done. However, it aims to regulate the provision of housing only on the state-supported areas, and not the entire territory of the RC, which is inadequate.

Protracted procedures for the provision of housing, and the resulting legal insecurity for clients, are certainly caused by numerous amendments to the AASSC, too. However, its consolidated text, which should facilitate its application, has not been drafted yet. Drafting a new law to replace the present AASSC has been postponed for early 2018. However, it aims to regulate the provision of housing only on the state-supported areas, and not the entire territory of the RC, which is inadequate.

The problems remain in the practice of first-instance bodies acting on the Ordinance on the Terms and Manner of Exercising the Right to the Allocation of Building Materials outside the Areas of Special State Concern, and the Ordinance on Construction and Standards for Repair, Reconstruction and Construction of Family Houses through the Allocation of Building Materials and Apartment Buildings in the Areas of Special State Concern, since they are not harmonised with the all amendments to the AASSC. We have several times reiterated the recommendation that all non-harmonised sub-legal acts should be harmonised with all amendments to the AASSC. However, this has not yet been done, but the CSORHC informed us that sub-legal acts required for its implementation would be adopted with

the new legislation. Nonetheless, its adoption has been delayed and remains to be in question, while the problems mentioned persist in practice.

Several complaints were received in 2017 related to the impossibility to buy off apartments for which the right to social housing had been realised through the lease of state-owned apartments, due to the tenants' failure to pay the rent or other costs resulting from the use of such apartments. This problem appeared in the cases of beneficiaries of housing provision who had been given the lease of state-owned apartments of family houses, by and large persons living in difficult social conditions, most of them social welfare beneficiaries who could not meet their financial obligations. Still, the requirement to pay the costs is specified by the Ordinance on the Lease of Housing Units and the Apartment Lease Act, with obligations of each particular housing care beneficiary defined by the individual act based on which they gained possession of the housing unit, such as rental contracts or approvals for the provision of housing by leasing apartments in and outside the areas of special state concern.

That being so, positive efforts have been made by the CSORHC to mitigate the lingering legal insecurity of the beneficiaries of housing care/tenants in the creditor-debtor relationship, formalised in 2017 by the adoption of the decision on the write-off of lease-related debts for the housing units owned by the RC and managed by the CSORHC. At the same time, development of an application started for processing data required for calculating debt, based on which decisions will be made on the write-off, with some 7500 expected.

Positive efforts have been made by the CSORHC to mitigate the lingering legal insecurity of the beneficiaries of housing care/tenants in the creditor-debtor relationship, formalised in 2017 by the adoption of the decision on the write-off of lease-related debts for the housing units owned by the RC and managed by the CSORHC.

The recommendation made by the Ombudswoman in the public consultation about the decision on debt write-off was accepted, that a person may not have both permanent and temporary residence registered at the same address, but either one or the other, as the two types of residence refer to two different concepts, permanent and temporary place of living. In line with this, beneficiaries of housing care may not have both permanent and temporary residence at the same address, as this could be a reason for rejecting their applications for the write-off of debt. The recommendation to change the provision of this decision whereby the write-off procedure can be initiated 'ex officio or following a request by the client' was not accepted, though. This provision is vague and imprecise, and could create problems in practice, as clients can rightly believe that the procedure in their interest has been initiated ex officio, without this being the case. We therefore suggested that procedures should, as a rule, be initiated ex officio, and only exceptionally following clients' requests, that documents to be enclosed to a request should be defined more precisely, and that recourse to legal remedy against a negative decision of the write-off should be regulated. However, this was not accepted, either, on the grounds that appeals may be lodged in such cases in line with the APA, and that only those documents are required which are necessary to properly determine the factual situation and make a decision. Since beneficiaries of housing provision are mainly older persons without legal knowledge, many with no adequate access to information, we still recommend that the decision should be changed as mentioned above.

The decision also gave authority to the CSORHC to write off lease-related debts for housing units that had been older than three years at the moment of decision coming into effect. As such claims, pursuant to the Civil Obligations Act, exceed the period defined by the statute of limitations anyway, and bearing in mind that beneficiaries of housing provision/tenants live in difficult financial and social circumstances, we recommend that debt is written off even before the expiry of the limitations period, or its payment should somehow be facilitated. Additionally, the decision only applies to the areas of special state concern. As this right can also be exercised outside these areas, its application should cover the whole territory of the RC.

In line with the Annual Plan of Controls of the CSORHC, Services-Regional Offices Knin, Zadar, Petrinja and Vukovar carried out 1768 field controls in 2017 of the legality of use of housing units, resulting in 213 warnings and injunctions issued to beneficiaries not using them in accordance with the rental contracts. Eviction proceedings were initiated in 152 cases, on the basis of which 76 beneficiaries were forced to return the housing units, while the remaining 76 proceedings were suspended because the identified irregularities had been put right.

Another problem is the impossibility to buy off apartments for which the right to housing provision has been realised through a lease of state-owned housing units due to outstanding debt for the unpaid mandatory maintenance fee. The beneficiaries complained that they did not consider it their obligation to pay the mandatory maintenance fee, but that this was the obligation of the RC as the owner, in accordance with the Act on Ownership and other Real Rights and the established case law. However, according to more recent case law accepted following the 2013 revisory Ruling of the Supreme Court of the RC no. 257/11, payment of the mandatory maintenance fee is the responsibility of the tenant, if specified so in the signed approval for the provision of housing, as upheld by the Ruling of the CCRC no. U-III-261/2014.
In line with the Annual Plan of Controls of the CSORHC, Services-Regional Offices Knin, Zadar, Petrinja and Vukovar carried out 1768 field controls in 2017 of the legality of use of housing units, resulting in 213 warnings and injunctions issued to beneficiaries not using them in accordance with the rental contracts. Eviction proceedings were initiated in 152 cases, on the basis of which 76 beneficiaries were forced to return the housing units, while the remaining 76 proceedings were suspended because the identified irregularities had been put right. The procedure of controlling the legality of use of housing units is not contentious in itself, arising from the competences specified by the AASSC, but attention should be paid to the beneficiaries' dignity, and to disturbing them as little as possible in their everyday activities. There have been complaints about the police often coming to check whether the beneficiaries live on the address where they realised the right to housing provision, considered to be limiting the freedom of movement. More details about this are provided in the chapter on status rights.

Problems persist of those persons who, in accordance with the amendments to the AASSC/14, occupy state-owned apartments or family houses managed by the CSORHC based on acts issued by public authorities that do not grant the right to housing provision, and it is not regulated by a special law. Along with decisions, contracts, certificates and similar acts, the CSORHC also considers records of taking possession of property to be acts issued by public authorities. As some beneficiaries have been using housing units without a proper decision on their right to do so, putting them in a danger of impending eviction, the CSORHC has ex officio requested, through regional offices, determining the

right to housing provision for 65 of them. However, there are still no accurate data on the number of beneficiaries in such situations.

Difficulties in legalising housing units to which the right to housing provision has been granted, caused by the designer refusing to produce an Instruction for Rehabilitation until the beneficiary has submitted a proof of the legality of the housing unit, continued in 2017. The Building Act stipulates that a building constructed, reconstructed, renovated, rehabilitated or purchased for the purpose of housing provision is considered built in line with a valid building permit if the competent body has issued an occupancy permit. Accordingly, the recommendation from the 2016 Ombudswoman Report was accepted, that buildings used for housing provision purposes, if they have an occupancy permit, should be considered existing buildings, i.e. built on the basis of a valid building permit.

According to CSORHC figures, as of 1 January 2017, 20 families had the right to monetary benefit in line with the 2008 Conclusion of the Government of the RC. However, as 17 of these families were granted possession of state-owned housing units where they exercised the right to housing provision, they lost the right to monetary benefit. Hence, as of 31 December 2017, there were three families enjoying this right. There were no new applications, and no complaints were received about the impossibility of realising the right to monetary benefit.

Urgent provision of housing

In 2017, the Ombudswoman received complaints related to the provision of housing outside the priority lists, i.e. urgent provision of housing, about negative decisions by the CSORHC Commission for the Provision of Urgent Housing. To realise this right, exceptional circumstances must have occurred, as defined by Article 19 (a) of the AASSC, and the Commission decides on their occurrence on sessions that are normally closed for public. If the Commission deems that the specified circumstances have not occurred, it notifies the applicant of the negative decision, whereby the procedure is terminated, and the dissatisfied client has no right to file a complaint or appeal, or any other legal remedy. If the Commission deems that the specified circumstances have indeed occurred, it proposes to the first-instance body that it should adopt a decision on the realisation of the right to urgent provision of housing, to which the applicant may lodge a remedy. According to the CSORHC, it is only as of this point that administrative procedure starts, having been non-administrative prior to that, i.e. dealing with a case as a priority, due to the occurrence of circumstances from Article 19 (a) of the AASSC.

According to CSORHC figures, the Commission received 395 cases in 2017, of which only 38, or 9.62%, were positively resolved, and 46 are still in process. With regard to the big proportion of negative decisions, the transparency of procedures and the availability of legal remedies are of particular importance. Besides, for the sake of the legal security of clients and the importance of rights being decided upon, the overall procedure for urgent provision of housing should be treated as administrative procedure, more so because in most cases the applications are rejected and clients referred to regular procedure. To ensure this, the CSORHC has partly accepted the recommendation by the Ombudswoman and allowed taking action upon clients' appeals against negative decisions by

the Commission, as appeals, pursuant to the APA, are resolved by decisions, and not by 'replying to appeals'.

Regional Housing Programme

The financing of six sub-projects in the RC was approved through the Regional Housing Programme in 2017, in which 328 families of refugees, returnees, internally displaced persons and former holders of protected tenancy were planned to be provided housing, yet only 150 cases have been resolved. Still, this represents a significant step forward in relation to 2016, when only 88 families were provided housing, and the CSORHC reported that all started activities are planned to be completed in 2018, which is encouraging. However, as there are 178 extremely vulnerable families, according to RHP criteria, with no housing, some of them still in organised accommodation, it is necessary to step up construction work on the unfinished sub-projects.

Organised accommodation

The implementation of the National and Regional Housing Programme in 2017 considerably reduced the number of users of organised accommodation in relation to the previous year. At the end of 2016, there were 339 of them, dropping to 58 a year later. The main reason for the decrease was the issuance of an occupancy permit for the newly-built community of Dumače, where 2014 users were moved from the displaced persons settlement of Mala Gorica near Petrinja, which was closed down after that. Additionally, all 17 users of the displaced persons settlement of Golubić near Knin were provided housing, as well as 16 users of the Matija home for the older persons and infirm near Varaždin. The remaining 58 persons are planned to be provided housing in the course of 2018, when the closure of all facilities for organised accommodation is finally expected.

Provision of housing to former holders of protected tenancy

66

'I hereby notify you that, apart from the above decision dated 26 April 2016, I received no offer or invitation to see any apartment, so that it can be considered that I have not been provided housing, and that the problem of my family has not been resolved to this day.'

As the deadlines for filing applications for the provision of housing to former holders of protected tenancy are still open, and all applications lodged in line with the present or earlier regulations are to be resolved in accordance with them, we point at identified difficulties.

The Ombudswoman has been acting upon the complaint by a former protected tenancy holder who filed an application for the provision of housing on 15 September 2005. As requested by competent bodies, she supplemented it in 2008, 2009 and 2010, but received no decision or any information until 2015. She therefore complained to us, and during the investigation process the competent office notified her that application was still being processed, requesting another supplement. A decision granting the complainant and her husband the provision of housing through the lease of a flat under the ownership of the RC was rendered in April 2016. However, as of December 2017 no habitable flat

had been offered, meaning that the decision of housing provision had not been carried through. This extended the housing provision procedure for this former holder of protected tenancy, who was born in 1948, to over 12 years. Consequently, the provision of housing for former holders of protected tenancy must be expedited, more so in light of the fact that, according to CSORHC figures, 1098 applications remained to be resolved as of 31 December 2017.

Reconstruction

The number of cases processing applications for reconstruction dropped from 313 to 207 in 2017, even with 72 new cases received. However, in several addresses beneficiaries of the right to reconstruction complained of poor quality or faults in the execution of civil works. One of the complainants had pointed at negligence in the reconstruction of a building back in 2008, and the examination procedure found that only a part of the works had been completed, rendering the building uninhabitable. A 2017 field visit confirmed the complainant's claims, resulting in hiring a new designer to supplement the Instruction for Rehabilitation, in order to make the building habitable 10 years after the works had been finished. We therefore recommend taking more urgent action in cases where complaints have been filed about the works of reconstruction war-damaged buildings.

RECOMENDATIONS:

55. To the Government of the Republic of Croatia and the Central State Office for Reconstruction and Housing Care, to provide additional resources, or housing units, for all beneficiaries included in the priority lists;
56. To the Government of the Republic of Croatia and the Central State Office for Reconstruction and Housing Care, to draft a bill regulating the field of housing care on the whole territory of the Republic of Croatia, and not only the assisted areas, in order to specify in more detail the procedure of providing urgent housing care, including transparent criteria for decision making;
57. To the Central State Office for Reconstruction and Housing Care, to issue an instruction to first-instance bodies to eliminate difficulties arising from the lack of harmonisation of sub-legal acts with the Act on the Areas of Special State Concern;
58. To the Central State Office for Reconstruction and Housing Care and first-instance bodies, to allow clients realising the right to housing care outside the priority lists to institute legal remedies against negative opinions of the Commission for urgent housing care, of which the first-instance body shall rule through a decision;
59. To the Central State Office for Reconstruction and Housing Care and the Government of the Republic of Croatia, to propose amendments to the Decision on writing off claims for unpaid dues for renting housing units owned by the Republic of Croatia and managed by the Central State Office for Reconstruction and Housing Care, in order for it to be applied on the whole territory of the Republic of Croatia, and not only the assisted areas, and to specify in more detail the procedure for realising the right to a claims write-off;
60. To the Central State Office for Reconstruction and Housing Care, to enable, in line with payment abilities of the housing care beneficiary, and when so dictated by circumstances of the case in

question, a write-off of claims for unpaid dues for renting housing units even within the period of the statute of limitations;

61. To the Central State Office for Reconstruction and Housing Care, to respect the dignity of housing care beneficiaries during annual checks of the use of housing units, limiting them in their everyday activities as little as possible;
62. To the Central State Office for Reconstruction and Housing Care, to expedite construction work on the unfinished Regional Housing Programme sub-projects;
63. To the Central State Office for Reconstruction and Housing Care and competent state administrative offices, to step up acting following former tenancy holders' requests for housing care;
64. To the Central State Office for Reconstruction and Housing Care, to step up acting in cases of complaints about work carried out in the reconstruction of buildings damaged in the war;

3.5. CITIZENS' STATUS RIGHTS

Permanent residence

'The pharmacy, the bank, anywhere else, they always ask for your ID. They think I have enough money to rent a flat. I can't afford EUR 250 to rent a 20m² studio flat, because that amounts to HRK 1800, or HRK 2000 with utility bills included, and my total income is HRK 2758...'

In 2017, like in the previous years, citizens considered ex officio de-registrations of residence, as well as rejections to register residence, as problematic. There are still cases of the MI de-registering residence in proceedings of which citizens were not at all aware, with police officers carrying out on-the-spot checks, following which decisions on de-registration of residence are issued, resulting in the termination of validity of identification documents. Citizens learn about this by accident, and in different situations, for instance when crossing the state border, as in the case of a citizen returning to Croatia after visiting her family, who was told that her ID is not valid, on the ground of her residence having been de-registered ex officio. In this case it was a returnee, who had registered residence together with her ailing husband. After the process was renewed, and a new on-the-spot check carried out, she received a decision on the registration of residence at the same address. CSOs reported similar instances, such as the case of a citizen who found out about her residence having been de-registered when she attempted to vote in local elections, when her name was not found on the electoral roll. A pensioner with modest monthly income living at the same address since 1967, she

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had to travel to the police station several times to re-register residence and obtain a new ID, all at her own expense.

The Residence Act (RA) gives the police authority, ex officio, to issue a decision on de-registration if by carrying out on-the-spot check it has been established that a citizen does not actually live at the registered address. However, police officers must establish all facts and circumstances based on which it can undoubtedly be concluded whether the person lives at the registered address. Establishing the factual situation by a single on-the-spot check, during which statements are taken from persons whose names are not mentioned in the decision, and who may have a dispute with the person whose residence they may want to de-register, is not aligned with the principle of establishing material facts as specified by the APA. In addition, respecting the above principle is questionable if a new residence has not been established, which is compulsory, as the RA defines permanent residence as the place and address where a person permanently resides to exercise their rights and obligations related to various interests in life.

Apart from the problematic practice in procedures of de-registering residence ex officio, the RA itself does not include provisions that would answer a great number of situations in which citizens find themselves after their residence has been de-registered ex officio, or they cannot register residence at a new address. This is evident in the case of tenants whose landlords are unwilling to approve their change of residence, and of persons who wish to register residence at the address where they actually live, yet cannot do so due to various obstacles. For example, a Homeland war disabled person entitled to the war veteran's pension of HRK 2550.00, whose ID with residence at his parents' address had expired, and where he no longer lived, could not register residence at his partner's address, because of her dispute with the landlord, who had refused to grant their approval. The war veteran was removed from the residence records and the electoral roll, and could not withdraw his pension from the bank as his ID had expired and he could not obtain a new one, which put his existence in danger. He therefore asked that his residence be registered at the address of the provider of the accommodation service, in line with the RA stipulation that the competent body shall, on an exceptional basis, register residence of a person with no place or address of living, or adequate means for that (homeless person), at the address of the social welfare institution or another provider of the accommodation service. However, the police insists on the SWC certificate that the person is a beneficiary of social welfare rights, defining homeless persons in line with the SWA, according to which this citizen is not that, as he has regular monthly income. The police therefore advised him to find accommodation at an address where he would be able to obtain the landlord's approval to register residence. Moreover, the regular monthly income of HRK 2550.00 was deemed as sufficient to meet housing requirements in one of the leading tourist cities in the RC, where the rents are particularly high.

Such contentious practice of establishing homeless persons' residence is exemplified in the case of a citizen who lodged an application to the police, which forwarded it to a SWC, which then forwarded it to another CWS, in the city of his last registered residence. In the meantime, notwithstanding the application lodged, he was found without an ID and sanctioned for misdemeanour. In this specific case, the MI was given explanation of the 2012 RA intention that, in cases like this one, it was the police establishing residence, rather than residence being registered following a police decision, so

that the homeless person could obtain an IDs without a SWC opinion or approval, the RA not prescribing such a thing, anyway. Eventually, this person was registered residence and issued and ID with the SWC address.

There were also complaints about the duration of procedures, which some citizens saw as hassle. A citizen from the town of T. located near the Serbian border complained about a procedure that had been going on for a year, even though he had duly responded to summons from the police, explaining that he often visited Serbia because his children from the first marriage lived there, as well as the city of P., where he used to stay for several days as his wife lived there. He invoked his right to freedom of movement, claiming that he could live the family life he wanted, without having to wait for the police to carry out on-the-spot checks of his residence. He particularly objected to questioning why he lived in one town, and his wife in another, suggesting a fictive marriage. The police confirmed that the procedure had indeed lasted for one year, and that several on-the-spot checks and interviews had been conducted, which is odd, as the client answered police summons. This points to police ineffectiveness in determining the factual situation and to unjustified procrastination at citizens' expense.

In a similar case, a citizen complained that police officers had been continually coming to check his address of residence for a year a half, and when not finding him at home, asking for information about him from neighbours with whom he is not in such a close relationship as to notify them of his whereabouts. According to his claims, every time he heard that he had been sought at his address, we went to the police, even though he never received an official summons. He got an impression that the police insisted on him registering residence elsewhere, as he was not found at his address of residence in three on-the-spot checks. However, he maintains that he duly pays the utility bills and receives mail, that he has no other permanent or temporary residence, regarding such conduct by the police as limitation of his right to work, which involves numerous trips and temporary stays outside the place of residence.

Amendments to the RA should provide the possibility to appeal against decisions on de-registering or rejecting to register residence, one that would precede possible administrative judicial procedure, especially taking into account that a citizen's ID card becomes invalid.

There was another case in 2017 of a citizen with no registered permanent residence who was rejected its registration, but was allowed to register temporary residence. This is in contravention of the RA, as one can only have temporary residence with registered permanent residence, the information about permanent residence being listed in the ID card, unlike information about temporary residence. After we notified the PA thereof, they asked the MI to provide instructions about taking action in such cases. However, we have no information or their reply.

Citizens can institute administrative disputes against decisions on de-registering or rejecting to register residence. According to available data, residence was de-registered ex officio in 22,063 cases, while administrative disputes were instituted in only 130, which shows that citizens are reluctant to enter judicial proceedings, even though figures from some parts of the country point at a high percentage of police decisions being invalidated, such as the Zadar PA, for instance (100%, or 3 out of 3), and the Dubrovnik-Neretva PA (over 50%, or 12 out of 22). This shows a just cause for

amendments to the RA, that would provide for an appeal, as the less complex and more accessible legal remedy against decisions on de-registering or rejecting to register residence, one that would precede possible administrative judicial procedure, especially taking into account that a citizen's ID card becomes invalid. Additionally, the RA does not foresee exceptions, not even in cases when a person can no longer live at their address of residence due to objective circumstances they could in no way influence, such as in cases of unlawful conduct of their spouse, due to which they were forced to leave the address of residence.

Due to these problems, the need arises for amending the ID Card Act, to allow submitting a legal remedy against a decision on de-registering or rejecting to register residence to postpone the termination of validity of the ID Card.

Citizenship

As regards procedures of admission to Croatian citizenship, the complaints focused on the duration of procedures, not taking into account objective reasons for not obtaining a dismissal from the citizenship of another country when this is a condition for admission, and on the presence of security concerns established although they were not found previously, when temporary or permanent residence was granted.

Pursuant to the APA, when conducting an inquiry procedure at the request of a party, the official person shall issue a decision and deliver it to the party within 60 days following the receipt of the request. However, the complaints received show that procedures of admission to citizenship often last for years. The MI justifies this with the complexity of investigating and determining the factual situation, and the lengthy procedures carried out by the Security and Intelligence Agency (SIA). The lengthiness of these procedures exacerbates the applicants' difficult legal and life situation, especially if they have taken all the actions required of them during the procedure, such as obtaining a dismissal from their former citizenship, effectively becoming stateless until they are granted Croatian citizenship. During this time, they are not in possession of valid identification documents, which may result in limitation of their freedom of movement.

For instance, the procedure referred to in one of the complaints we received has not been completed within two years following the submission of an application, even though the applicant in the meantime submitted proof of dismissal from her previous citizenship, and the MI obtained necessary information from the MF and the MJ. The applicant then sent an urgency note to the MI, following which she was notified that an administrative procedure was being conducted in which all necessary evidence and information from other state authorities was being collected, in order to decide on the justifiability of the application based on the factual situation established. In the meantime, the SIA carried out a security vetting and sent an opinion that there are no barriers for admission to the MI. However, one month later, and two years after lodging her application, the MI has issued no decision yet and the applicant has no idea about when she could expect the procedure to end, despite having no ID and being officially stateless.

As stipulated by the Croatian Citizenship Act (CCA), a foreigner who has submitted a request for citizenship and has not yet been granted dismissal from foreign citizenship at the moment of the

submission or does not have proof that they would gain one, may be issued a guarantee of admission to Croatian citizenship for a term of two years, provided that they fulfil the rest of the requirements. If a foreign country does not permit dismissal from its citizenship or it places requirements for dismissal which cannot be fulfilled, a statement of the applicant who has submitted a request shall be sufficient to renounce their foreign citizenship under the presumption of acquiring Croatian citizenship.

An applicant thus notified the MI of his inability to obtain a dismissal from citizenship of the Republic of Macedonia before the expiry of the guarantee of admission to Croatian citizenship, with no proof of him being a Macedonian citizen, the MI just assuming so. Despite his continuous addresses to the diplomatic mission of the Republic of Macedonia, he never received a valid proof of Macedonian citizenship, and consequently could not renounce it. He previously had the status of a stateless person in the RC, but the MI annulled it due to its assumption that the applicant was a Macedonian citizen. The MI ultimately rejected his application for admission, on the grounds that proof of dismissal had not been submitted within two years, but with no explanation why the change of application had not been granted. This is not in line with the APA, which specifies that, before the rendering of a first instance decision in the administrative matter, a party may amend their application or file another one, when such applications are based on the same or essentially similar facts. When the official person determines that the conditions for amending the filed application or for filing another application do not exist, a decision dismissing the party's application shall be rendered. In their reply to the Ombudswoman, the MI did not state why they did not consider and explain or dismiss the change of application, but referred to the possibility to institute administrative dispute instead. Afterwards, the applicant obtained a certificate from the Macedonian Embassy of not being their citizen, which the MI never officially requested.

We still receive citizens' complaints about negative decisions on the admission to Croatian citizenship by the MI due to the existence of security concerns as established by the SIA, although other conditions have been met. Such persons have usually lived in the RC for many years, and have not violated the law, according to MI and data by the courts. This points at the need to more precisely legally define the facts and circumstances representing grounds for the existence of security concerns preventing the admission to Croatian citizenship, and the terms such as 'protection of legal order' and 'protection of national security', to remove arbitrariness from the procedures, of which more details are provided later on.

Residence of foreigners

'The Zagreb Police Administration passed a decision on the termination of mine and my wife's status, with an explanation that we had moved out of the country, thus denying us the right to housing and the refugee status, discriminating against us as members of a national minority.'

Complaints filed by citizens residing in the RC for years, related to refusals to register temporary or permanent residence based on assessments about the presence of security concerns, were noted in 2017, as well. Such persons received positive assessment in the security vetting carried out for their previously granted residence, have not been registered in the MI criminal records, no criminal proceedings have been brought against them, yet security concerns are still cited as the reason for not granting them permanent or extending temporary residence. As the reasons for making such assessments are classified, they do not know what they are held accountable for, and consider these to be arbitrary judgements. In accordance with the Security Vetting Act (SVA), basic security vetting is carried out for granting temporary residence, following which the SIA informs the MI of the presence or absence of security concerns, and the MI, as the authority in charge of the procedure, issues a decision whose explanation, in accordance with the APA, must include the factual situation established and decisive reasons in assessing particular evidence. However, after receiving an opinion from the SIA of the presence of security concerns, the MI only refers in its explanation to SIA's classified documents, on the basis of which it concludes whether reasons exist that constitute security concerns affecting the positive resolution of an application, without assessing its content and relevance with regard to the case in point.

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The Directive concerning the status of third-country nationals who are long-term residents (2003/10) stipulates that, when taking the relevant decision, the member state shall consider the severity or type of offence against public policy or public security, or the danger that emanates from the person concerned, while also having proper regard to the duration of residence and to the existence of links with the country of residence. According to the EU Court of Justice case law, all measures taken on the basis of legal order reserve must have serious justification, threat to the legal order must be real and severe, not potential or imaginary, it must affect the fundamental interest of the society, and the threat posed by a person must have been specifically realised and determined. As we stressed in the previous reports, in order to bring the procedure of rendering a decision on the presence of security concerns in line with the standards of the above Directive, and to eliminate arbitrariness in procedures, the legal standards of the terms 'protection of legal order' and 'protection of national security' need to be defined by the law. The SVA is deficient, too, in specifying that the security concerns established in carrying out basic security vetting for registering residence are those facts that point at abuse or the presence of risk of abuse of position or duty, or certain rights and competences, against the national security or interests of the RC. Consequently, it should be more precisely defined on what facts the security concerns serving as the cause for a rejection of residence to a foreigner are based, since the present definition is suited to vetting persons appointed to the positions of state officials or jobs of interest for the RC, and not to persons liable to vetting for a registration of residence.

In addition, administrative case law, such as in the case of the Split Administrative Court decision 15 UsI-200/17-6, also indicates that justifications of decisions based on security vetting must state sufficiently clear reasons from which it can be concluded why a person represents a threat to national security, and that the MI basing its decisions solely on SIA opinions is not in conformity with the APA standard on the content of justification of a decision. Balance should be established here between protecting classified information and protecting a client's constitutional right to appeal.

The court could not assess the legality of the justification, as it could not unambiguously establish the application of the principle of determining the material truth, and whether the client had been provided an adequate possibility to learn about the results of finding evidence. Also, even though the court, in line with the Data Confidentially Act, has access to the security vetting carried out, certified official persons from the MI should also have access to classified data, in order for the principle of independence in resolution and free assessment of evidence to be upheld. The court, therefore, considers it legally impermissible that no official person from the MI had access to the required data in this specific procedure, and that the administrative court resolved the legality of a decision rendered by the MI, the staff of which who participated in rendering this decision had no knowledge of the reasons for the presence of security concerns.

As for citizens giving consent to security vetting to be carried out, the MI practice is not in line with the SVA. Namely, security vetting is based on a questionnaire which includes the consent to conducting a security vetting, which must be filled out in person, and the consent signed in person and voluntarily. However, a complainant claimed that she had signed no consent, and that she had not been aware of the official procedure, which brings the legality of the security vetting in question, the consent being its important element. The competent PA considers the condition of providing consent in writing to be met when an applicant for registration of residence signs a form which contains a closing statement that their signature is considered as approval for passing on all the information from the form to be checked by competent authorities. However, it does not follow from this statement that signing the form includes giving approval for security vetting of foreigners to be carried out, as stipulated by the SVA. This condition would only be met if the statement contained information that signing the form includes providing express approval for security vetting to be carried out. As the present MI form does not expressly state so, the legal condition of providing a voluntary consent for conducting security vetting is not fully met.

Persons who have been granted permanent residence, particularly those who enjoyed exceptional, more favourable legal conditions, for example, because they permanently resided in the RC on 8 October 1991 and are beneficiaries of the return, reconstruction and housing programme, are deeply affected by decisions on the termination of permanent residence on the grounds of their moving out of the RC, while not taking into account their personal or family-related reasons. As specified by the AA, permanent residence of a foreigner shall terminate if they moved out of the RC or resided abroad without interruptions for a period over one year. However, the term 'moved out of the RC' is not defined, giving rise to two possible arbitrary interpretations. Besides, this legal provision is not harmonised with the Directive concerning the status of third-country nationals who are long-term residents.

Arguments for this assertion can best be provided by the example of a husband and wife from Šibenik, who received MI decisions on the termination of their permanent residence, with an explanation that they had moved out of the RC, as the previous year one spouse had resided 50 days, and the other 86 days in the RC. Although they stated during the procedure that they have older parents who need their help and who they take care of, this was not taken into account, contravening the provisions of the Directive related to the possibility of taking into account special or exceptional reasons for absence from the state territory. Therefore, a decision was rendered on the termination of permanent residence based on an arbitrary interpretation of the term 'moving out of the country', which the Directive does not even include in the way as interpreted by the MI. In explaining its decision, the MI offers an erroneous interpretation that the Directive applies only to third-country nationals who have been granted permanent residence under regular, and not favourable conditions.

In contrast, the Directive allows the application of more favourable national provisions, and undeniably includes third-country nationals who have regulated permanent residence under more favourable national conditions. As for the termination of permanent residence, the Directive does not foresee or permit putting such persons in a disadvantageous position in relation to those who have regulated permanent residence under regular conditions stipulated by the AA, making obvious the non-alignment of Article 99 (1.2) of the AA with the Directive.

RECOMMENDATIONS:

65. To the Ministry of the Interior, to draft the amendments to the Residence Act required to define the criteria for assessing whether the person actually lives at the address where they have registered residence, taking into account the circumstance that the person cannot live at their residence address due to objective reasons they cannot influence;
66. To the Ministry of the Interior, to determine permanent residence of persons with no place or address of living, or the adequate means, solely based on the Residence Act;
67. To the Ministry of the Interior, to determine, when de-registering residence ex officio, the address where the citizen actually lives, in terms of the legal definition of permanent residence, and to complete proceedings within reasonable deadlines;
68. To the Government of the Republic of Croatia, to legally define, following an expert and public consultation, the legal standards involving the concepts of 'protecting national security' and 'respecting legal or public order', to prevent arbitrary acting and increase the level of legal security in the procedures of acquiring Croatian citizenship and regulating the residence of foreigners;
69. To the Ministry of the Interior, to allow access, before issuing decisions on rejecting applications for admission into Croatian citizenship, or applications for residence of foreigners, on the grounds of security concerns established by the SIA, in order to properly apply the principle of autonomy in resolution and free evaluation of evidence, to the classified information based on which decisions are issued to certified official persons from the MI;

70. To the Ministry of the Interior, to process procedures for acquiring Croatian citizenship within the deadlines stipulated by the General Administrative Procedure Act, especially when the applicants have renounced their previous citizenship;
71. To the Ministry of the Interior, to include in the application form for approving residence to foreigners, explicit information that the applicant's signature provides consent for carrying out security vetting;
72. To the Ministry of the Interior, to align the provision on the termination of permanent residence from the Foreigners Act with the Directive concerning the status of third-country nationals who are long-term residents (2003/109);

3.6. EMPLOYMENT AND CIVIL SERVICE RELATIONS

'You must be wondering why I didn't report all that earlier, but I have a ready answer to that question. I was scared and I am still scared. I tried writing this letter several times, only to give it up. I don't want anything to happen to me (the chances of that happening much less now, as I live abroad) or my family.'

The trend of citizens dissatisfied with their status in the society leaving the country continued throughout 2017, both those employed and those looking for work, regardless of their salaries, if they receive them at all, if their bank accounts are blocked or not, and regardless of their marital status. The cases of Croatian citizens leaving the country for the very same reasons, regardless of the level of development of the region they live in, are saddening, and at the same time serve as a warning.

Although the number of unemployed persons is decreasing, especially during the summer season, this is not a result of their greater employability, but rather of deleting from records those who do not report to the Croatian Employment Service (CES), and of the unemployed departing abroad.

This all affects employers, who cannot find suitable workforce and have asked the Government of the RC for more work permits for foreigners, particularly in the construction sector, shipbuilding, metal industries, transportation, tourism and the hospitality industry. The fact that the Government of the RC established a quota of 7026 work permits for foreigners in 2017, and that the 2018 quota was put up to as many as 31,000, with a possibility to extend the 9000 that have already been issued, amply demonstrates the gravity of the employment problem, both from the aspect of the unemployed, and those wishing to change jobs, and the position of employers.

Many who stay are dissatisfied and show a low level of trust of the public services and state authorities that they believe should be helping them, considering those working there as idlers and parasites, sometimes also perpetrators of the criminal offence of corruption.

The 2018 EC Country Report on the RC also mentions a drop in unemployment spurred by economic growth, albeit coupled with a worryingly low employment rate, and a decrease of the working-age population, due to ageing and the drain caused by emigration, which negatively affects the growth

and development of the RC. Despite certain improvements in the labour market, the following key problems are emphasised: insufficient utilisation and a lack of focus of active labour market policies on vulnerable groups, considerable regional differences in overall employment, still high prevalence of fixed-term work contracts in overall employment, inadequately developed social dialogue between the Government and other social partners, and a non-harmonised framework for defining salaries in public administration and public services. According to the Social Indicators Scoreboard from the European Pillar of Social Rights, the RC is facing challenges in terms of equal opportunities, labour market access and just work conditions.

Despite improvements in the labour market, the key problems remain: insufficient utilisation and a lack of focus of active labour market policies on vulnerable groups, considerable regional differences in overall employment, still high prevalence of fixed-term work contracts in overall employment, inadequately developed social dialogue, and a non-harmonised framework for defining salaries in public administration and public services.

In both the public and private sector, employees often conclude fixed-term contracts which are unfavourable for them, work without salaries being paid, or agree to receive minimum wages on their current account, the rest being handed out in cash, agree to working overtime against the law, often avoid asking for medical help when their health is impaired or severely ruined due to difficult working conditions and excessive overtime, night or work in shifts.

In complaints filed by employed citizens addressing violations of employment rights they often mention abuse at work. However, like so far, they usually do it only when their health has seriously deteriorated and they are on a sick-leave, or when their employment has terminated and they do not fear being laid off any more. Due to inadequate legal regulation that we have systematically been pointing at, the employed can still attempt to realise their rights by instituting a procedure for the protection of dignity pursuant to the Labour Act (LA), by means of codes of ethic and collective agreements, by pressing charges for compensation of non-material damages caused by an infringement of the rights of personality pursuant to the Civil Obligations Act (COA), or by filing criminal charges for suspicion of committing the criminal offence of abuse at work.

3.6.1. Rights during unemployment

'Calls for applications are announced only for professional training without commencing employment. I can't volunteer because I have no income, and the system itself doesn't really work in practice as presented in the Ministry's letters. No hospital in the RC has positively replied to my requests to volunteer. They would typically say something along the lines of "Why should we pay your contributions and travel costs if we can get a worker for free through professional training without commencing employment?" Besides, what would I live from, with a six-month old child, if I worked for free?'

As of the end of December 2017, there were 187,363 unemployed persons registered in the CES records, or 20.8% down in relation to December 2016. During the year, the average figure stood at 193,967, while 301,820 persons were removed from records. However, although as many as 65.2% were removed due to their employment, the significant drop in the number of unemployed persons is also a result of a series of other reasons, such as exiting the workforce (5.2%), de-registration from the records and failing to report (7.9%), and not abiding by the legal obligations of unemployed persons (19.5%). 37,907 unemployed persons were newly included in the CES's active employment policy programmes in 2017, and out of the 33,387 persons who stopped using the measures in 2017, 48.8% found employment.

Removing unemployed persons from records due to their failure to report and abide by the law, the amount of monetary benefit received during unemployment, active employment policies, and treatment of the unemployed by CES staff are among the most common reasons for dissatisfaction with the work of the CES. Most of the reasons for complaining result from the CES enforcing regulations specifying the rights and obligations of unemployed persons, different interpretation of regulations, but also, at times, questionable professionalism in the conduct of CES staff. Due to their sensitive situation, unemployed persons normally expected greater flexibility on the part of the CES, but also their stronger involvement in fulfilling legal obligations.

CES Regional Office Rijeka failed to duly check the meeting of contract obligations, to warn beneficiaries of contract violations, and to provide necessary support, which, as a consequence, had requests for the restitution of funds paid on the basis on contracts on using active employment policies, even six years after the contracts had expired.

Among them is checking how the beneficiaries of active employment policies meet their contract obligations, regarding both employers and unemployed persons. We received several complaints in 2017 about negligent and untimely actions taken by the CES, with the most serious failures noted in the CES Regional Office Rijeka, which failed to duly check the meeting of contract obligations, to warn beneficiaries of contract violations, and to provide necessary support, which, as a consequence, had requests for the restitution of funds paid on the basis of contracts on using active employment policies, even six years after the contracts had expired. The fact that beneficiaries did not meet or violated their obligations is not disputed. However, that was caused by their incomprehension or different interpretation of contract obligations, of which the CES was normally duly notified, or instructions for further action were requested, with no adequate feedback. Although the CES implemented certain sanctions against the Regional Office Rijeka to prevent such faults in the future, the complainants were required to pay back the funds they had received, plus interest, for the entire period, even in cases of obvious statutes of limitations brought. The complainants were additionally threatened with activating the blank debentures they had provided to the CES on contract signing as a means of securing debt.

Active employment policies, and occupational training without commencing employment in particular, were the focus of most complaints, questions and criticisms in 2017. All these policies were redefined at the beginning of the year, with the new Employment Mediation and Unemployment Rights Act and the Act on Amendments to the Employment Incentives Act coming into force as of 1 March 2017. All information about the changes of their rights and obligations, as well as options provided by the CES, have been made publicly available to unemployed persons, beneficiaries and

potential beneficiaries of active employment policies on the simply and clearly laid out website 'Od mjere do karijere' (From policy to career).

However, the complaints continued to point to unclear and inconsistently applied criteria for evaluating applications for co-financing self-employment and applications for occupational training without commencing employment. The CES usually referred to the publicly available information about particular policies, including the Terms and Manner of Use of Funds for Implementing Policies in 2017, passed by the CES Board of Directors. In evaluating each application, meeting of not only the basic criteria was taken into consideration, but also 'other elements' based on which the reasons for including each unemployed individual in one of the policies were assessed. These 'other elements' were never specifically listed, which allowed the CES to have the much-desired flexibility with regard to each unemployed person, but at the same time, put the regularity and transparency of procedures in question. In one case, for instance, the criterion of suitable work experience proved questionable, with the CES assessing that the unemployed person in question could not be granted use of this policy working on tasks where a university degree is required, as that person had the work experience and capacity for unassisted work, even though the experience had been gained working on secondary-education degree tasks. The case in point was of a long-term unemployed person who, after obtaining a university degree, could not find employment for four years, being over-qualified for tasks that required a secondary-education degree, and, at the same time, unable to meet the condition of possessing relevant work experience for university-degree tasks. Even the CES, as an employer, refused to hire this unemployed person, with an explanation that they did not have the required work experience.

A considerable number of complaints was still received at the beginning of the year related to problems with the payment of travel expenses during occupational training without commencing employment. However, after the obligation to cover travel expenses, following legislative changes and a redefinition of the policies, was transferred from the CES to employers, no further problems have been identified, although some employers, mostly public institutions, were reluctant to accept the change, citing insufficient funding, thus putting an end to admitting new trainees.

However, the policy of occupational training without commencing employment was by and large criticised by those unemployed who could not use it because they did not meet the legal conditions, were over 30 years of age, did not fulfil 'other elements' as assessed by the CES, for example, had several qualifications of different, and in some cases the same, levels of education, their occupations were considered as being in demand etc. Apart from the discriminatory aspect of this problem, elaborated in more detail in the chapter on discrimination based on age and education, the complainants pointed to the fact that the manner and terms under which this policy was carried out brought about violating their right to work. Namely, the complaints pointed out the issue of professions in which special laws stipulate the

The policy of occupational training without commencing employment was by and large criticised by those unemployed who could not use it because they did not meet the legal conditions, were over 30 years of age, did not fulfil 'other elements' as assessed by the CES, for example, had several qualifications of different, and in some cases the same, levels of education, their occupations were considered as being in demand etc.

obligation to complete apprenticeship, such as health care, as a precondition for taking the professional exam, which in some professions is itself a precondition for obtaining a licence to work. To access the labour market, such unemployed persons had to gain work experience of a minimum of one year. Although apprenticeship could be carried out in several ways (by concluding a fixed-term work contract, a contract on occupational training without commencing employment, with a possibility of using active employment policies, or by concluding a volunteering contract in line with special regulations), the complainants stressed that it was extremely difficult, and sometimes nearly impossible, to complete apprenticeship except through occupational training without commencing employment, which they were not allowed to do for failing to meet special conditions. Other options for completing apprenticeship were seldom used, as the employers were more inclined, in both the private and public sector, to hire apprentices through the policies provided by the CES, as that was more beneficial in terms of finances, and the occupations involved mainly required apprenticeship to be taken in public authorities, where new employments were banned by a decision of the Government of the RC. This problem also extended to the professions in demand in the labour market, according to the CES, where the policy of occupational training without commencing employment could not be used because of the assumption that unemployed persons would have no problems finding jobs there. However, that did not prove to be reasonable for jobs in the health care system, due to difficulties in completing apprenticeship, notwithstanding the active employment policies.

By the end of the year, these problems were finally recognised, and the Government of the RC adopted new Guidelines for Development and Implementation of the Active Employment Policy in the RC 2018-2020, the application of which should remove the obstacle created by the obligation to complete apprenticeship, which should then allow the unemployed access to the labour market in exactly those occupations they were trained for.

3.6.2. Employment relations in public services

'It's about an appeal against a call for applications for a vacancy, more specifically about the decision to select the director of a public institution for the management of protected parts of nature... I.G. has no experience in environmental protection, and his profession has no relation to environmental protection. It is Ms V. and myself who have both the profession and experience, yet we were eliminated with no explanation. How could an ordinary citizen afford to pay an appeal against a fixed call for application, and is it all made that way just to make it possible to go on with fixed calls for applications normally? Is amending the law the only solution, and who needs to be contacted for that? Or else, why don't they just state it publicly that you can't get a job without connections, and what are calls for applications for if they are all fixed?

Complaints in this area indicated irregularities in carrying out employment procedures, nepotism, trading in influence and abuse of position and authority, irregularities in hiring trainees without commencing employment and in procedures of appointing and relieving directors of duty, unlawful overtime work, irregularities

in terminations of work contracts, in paying salaries and other material rights, but also abuse at work by directors and/or other employees. Citizens who reported reasonable suspicion of the criminal offences of corruption in most cases had already contacted the judiciary, and we referred those who had not to use this possibility.

However, the issue of employment in public services is a complex problem lasting many years, and 2017 was no exception. Citizens continue to be deeply convinced that public services are not equally accessible to everyone and that calls for applications for employment in public institutions are announced as mere formality, since persons who will be employed on the jobs being announced are known in advance. This conviction is further reinforced by numerous employment procedures during which no transparent selection procedure is carried out, and candidates are selected solely based on documentation submitted, or possibly through interviews, which leaves the employer with considerable room for discretion. Although public services must have a level of freedom in selecting the best candidate, they are still employers obliged to make every position accessible to any citizen of the RC who meets required conditions. It would therefore be desirable if public institutions and other legal persons performing public services clearly defined the procedure and manner of selecting candidates in carrying out calls for applications, and if candidates could be properly informed of the course of procedure in advance. The process of hiring candidates for occupational training without commencing employment should be defined in a similar way, as complaints referred to voluntary actions taken by some public institutions, mainly in the health sector.

Citizens continue to be deeply convinced that public services are not equally accessible to everyone and that calls for applications for employment in public institutions are announced as mere formality, since persons who will be employed on the jobs being announced are known in advance.

As for irregularities in the procedures of appointing and relieving of duty school principals, often linked to allegations of nepotism, trading in influence and abuse of position and authority, with regard to the competences of the Minister of Science and Education, along with education inspectors, inspections should be organised promptly, without waiting for cases to receive media attention, as this can have an effect on determining the factual situation and inspection results, as well as on public trust of the work of the MSE in general.

Complaints which pointed at irregularities related to lay-offs, including not providing advance warnings, mostly reported by health care and employees in pre-school and school institutions, demonstrated that complainants had been subjected to long-term abuse at work before being laid off, not only by directors and principals, but also other employees. The employees in question would not normally contact the person appointed by the employer to protect their dignity, as they did not consider them to be impartial, working in the interest of and being on the side of the employer.

Organisation of work in secondary school dormitories is one of the contentious issues in the school system. Defining the work schedule and obligations of the care providing staff, on the one hand, and their education associates – night watchmen, on the other, has been a long-time problem in one Zagreb dormitory. The impossibility of fully defining the work of night watchmen in line with the National pedagogical standard of the secondary education system, the Ordinance on the work quotas

of secondary school teachers, the Ordinance on the scope of work of secretaries and the administrative-technical and auxiliary tasks performed in secondary schools, as well as the LA, raised the issue of possible non-harmonisation of these regulations. After several supervisions were carried out, the Education Inspection established that the work schedule could not be put together in accordance with the regulations on the grounds of their mutual lack of harmonisation, while the second-instance procedure found no collision between the regulations. The employer's unwillingness to organise work in the institution by not putting the rights of the employees in question, coupled with the existing ambiguities about the schedule and way of work, exacerbated the already disadvantaged position of the night watchmen, as a specific occupation with working hours normally during the night and on Sundays and holidays, which represents a challenge for workers' health, as well as for balancing their professional and private lives.

3.6.3. Civil service

'Until 2015, I had a salary supplement of 25% on account of difficult working conditions, and then someone just came up with the idea to scrap it. The decision on my assignment to the post reduced the supplement to 5%. Several times I asked why, but every time I was told that the decision had come "from above". I contacted the Civil Service Board, filing an appeal immediately upon receipt of the decision, and sent an urgency note in early 2017, but have received no reply about any solution to this day. Some civil servants who were employed on the same positions at the same time, or later, but with no salary supplement, hired lawyers and managed to obtain it, but I am apparently a naive person waiting to become infected with an incurable disease, be physically attacked or something like that to compel me to fight "those above".

In line with the recommendation from the Ombudswoman's 2016 Report, provisions of the Civil Servants Act (CSA) and the Regulation on the Organisation and Manner of Work of the Civil Service Board (Board) have been amended, limiting, inter alia, the Board's competences and creating preconditions for strengthening its human capacities for working in full. The Board's competences now include deciding on complaints against admission into civil service, assignments to posts, salaries, transfers, mobility, assessment, and termination of civil service, while general labour regulations apply to exercising other rights and obligations, which includes judicial protection, but not a previous appeals procedure before the Board. Inadequate justification remains as the most common reason for annulling first-instance decisions. However, the Board can hardly be described as efficient, particularly taking into account the 25,324 administrative cases the resolving of which was still ongoing as of 1 December 2016.

In 2017, the Board's competences were limited and preconditions created for strengthening its human capacities for working in full. However, the Board can hardly be described as efficient, particularly taking into account the 25,324 administrative cases the resolving of which was still ongoing as of 1 December 2016.

Along with civil servants who contacted the Ombudswoman complaining about the duration of proceedings before the Board, we continued to receive complaints against the work of administrative inspection, given the lengthiness of their proceedings and inadequate use of competences, especially with regard to their failure to carry out immediate inspections, of which more details are provided in the chapter on inspection services.

Participants in the procedures for admission to civil service complained about the duration of procedures or voiced their discontent with not having been taken into consideration as candidates, due to a failure to meet some formal requirements. Most of them were not aware, though, that they could, upon receiving a notice of a failure to meet the requirements, declare a complaint to the head of the public body, which is then decided by a decision, against which an administrative dispute can be instituted.

Both civil servants and citizens in general contacted ethics commissioners who, in accordance with the Civil Service Code of Ethics, are appointed by heads of public bodies. However, dissatisfied with their work, and considering them impartial or insufficiently objective, they would then lodge complaints to the Civil Service Ethics Commission. In cases when it was established that no action in line with the Code of Ethics had been taken by the ethics commissioner for several months after receiving a complaint, or even after a request by the Ethics Commission, we recommended to the Minister of Construction and Physical Planning to take appropriate measures. Unfortunately, despite our insistence, we have no feedback on whether our recommendation was accepted.

The recommended amendments to the Police Act, which would specify the maximum duration of performing the tasks of another position, have not been adopted. This measure can therefore still be exploited, and protecting from it is difficult, as it is performed based on an order, and not a decision, against which a complaint may be lodged to the Civil Service Board.

Like in 2016, the Ombudswoman also received complaints from police officers and employees of the ministries and other state bodies, directly or through trade unions, focusing on transfers, assignments to posts resulting in lower salaries, problems related to payment of other material rights, promotion opportunities and mobbing.

Police officers continue to complain mostly against the conduct of senior officers in some police administrations and police stations, highlighting their inappropriate behaviour, insults, manipulations with working hours, and other forms of arbitrary treatment, often resulting in unnecessary transfers and assignments to posts, and in issuing orders to perform the tasks of another position, in order to bring about further humiliation and punishment if they complain against such treatment, all the while justifying it with service requirements. Performing the tasks of another position upon a written order by the line senior officer, done by as many as 660 police offices in 2017, can still continue indefinitely, since the recommended amendments to the Police Act, which would specify its maximum duration, have not been adopted. This measure can therefore still be exploited, and protecting from it is difficult, as the tasks of another position are performed based on an order, and not a decision, against which a complaint may be lodged to the Civil Service Board.

Employees in the prison system also complain about mobbing and personally motivated transfers and dismissals from duties, which typically results in lengthy complaints and/or judicial proceedings during

which the employees are further exposed to uncertainties with regard to their status and associated rights.

After receiving several complaints by the same employee of the MSE, in which she points out that the MSE and its legal predecessors have continuously issued decisions on her assignment without providing adequate explanation, after which the Civil Service Board annuls them and returns them to regular procedure, we recommended the minister to issue a decision on assigning the complainant to post by complying with the Board's legal understanding and instructions, to avoid unnecessary burdening of the Board and/or competent courts with such and similar cases. However, we received no feedback on whether action has been taken upon this recommendation.

We also received several complaints by employees of the Ministry of Foreign and European Affairs (MFEA), which highlighted bad experiences of working in diplomatic missions and consular offices of the RC, especially with regard to poor organisation of work, abuse by senior employees and officials of those who tried to point at irregularities, first and foremost for committing the criminal offences of abuse of position and authority and falsification of official documents, considering their former and current line managers as culpable. Despite the bad experiences, the complaining civil servants were still interested in working in the diplomatic missions and consular offices, yet pointed to inadequate transparency of the procedure, based on the minister's referring to a previous 'expression of interest'. Taking into account Articles 34 and 42 of the Foreign Affairs Act (FAA) and Article 127 (1) of the CSA, the MPA does not consider an 'expression of interest' as the ground for assigning employees to posts to particular diplomatic missions or consular offices, deeming that employees are assigned ex officio and in accordance with service requirements. However, the criteria for assignment should still be transparent and objective, and based on professional knowledge and abilities of civil servants. In addition, the complaints indicated a lack of harmonisation of the term 'employee' in the FAA with regulations on civil servants, as the FAA defines the term more broadly, because of which we sent a recommendation to the MFEA about the need for harmonisation.

3.6.4. Employment relations in the private sector and crafts

'I started working there for free in May. The agreement was that I would officially be employed from 1 June. I was registered and was issued my sanitary clearance some time around the beginning of July. I was never given the contract I'd signed. I was naive, again. I was informed that I was expected to work for 40 hours a week, but then again, nobody observed that. As for the payment of salaries, the gentleman caused me significant damage. I was supposed to receive HRK 3500 in June, and HRK 4000 in July and August. I'm not quite sure, but I think I received some HRK 2500 on my bank account, and never saw any of the rest, but that can easily be checked. We talked about it several times and he promised to pay my salaries and give me back my documents, but he always made a problem about it, trying to scare me into coming back to work... His explanation for not wanting to pay me was that he would use the money he owed me to cover the costs of a lawsuit when he sues me...'

Unlawful lay-offs and other irregularities related to termination of employment, failure to pay salaries, non-delivery of the calculation of owed and unpaid salaries, unregistered work, mobbing and irregularities related to reporting injuries at work, as well as unlawful and unpaid overtime work, were among the main reasons why employees working in the private sector contacted the Ombudswoman in 2017, asking for assistance and advice about the possibilities of protecting their rights.

Notwithstanding the various mechanisms deployed by the state in recent years to try to combat non-payment of salaries, and/or temporarily, at least, ensure payment of salaries due by securing workers' claims in case of freezing the employer's account, workers sometimes still cannot get at least the salaries due, let alone those appropriate for their work. The problem increases with unregistered work ('moonlighting'), with workers often not being aware of their situation. Inspections found that employers had failed to pay even minimum wages to 6671 workers, on the grounds of which reasonable suspicion was established of 645 violations, and 93 criminal charges were filed, while the number of those who were paid minimum wages, but not those that were due, was certainly higher. According to MI figures, 365 criminal offences of failing to pay salaries were recorded in 2017. Additionally, the Labour Inspectorate passed 14,773 decisions on the temporary securing of payment in cases of salaries or remunerations due, when employers failed to meet their obligations from the Act on Securing Workers' Claims in the Event of Employer's Bankruptcy, i.e. later Act on Securing Workers' Claims.

The position of workers whose employers failed to regulate termination of their employment in one of the legally stipulated ways is particularly precarious, as they find out about it by chance, typically when in ineed of health care services, when they are informed that they have no health insurance. In some cases, employers even failed to de-register employees from mandatory insurance, and their responsible persons were not available to the Labour Inspectorate, SAO and other competent bodies, forcing workers to institute administrative procedures by submitting requests to the Croatian Pension Insurance Fund (CPIF) to determine the date of termination of employment, along with making regulating their status with the CPIF and CES more difficult.

Fixed-term work contracts create a feeling of insecurity and uncertainty in employees, not only in terms of working for a particular employer, but also future existence, including family planning, providing children with education, building a career etc., contributing to decisions made by both the employed and unemployed to look for work outside the RC.

We received a complaint, on behalf of the workers of a company of strategic interest for the RC, from their trade union and a former employee, who had concluded 54 fixed-term work contracts with this employer during a 15-year period. Inspection found that concluding these contracts was not in contravention of the LA, and the employer received approval from the workers' council in this specific case, too. Concluding an excessive number of fixed-term work contracts, ranging from 32% to 51% in 2017, depending on this employer's business unit, creates a feeling of insecurity and uncertainty in employees, not only in terms of working for a particular employer, but also future existence, including family planning, providing children with education, building a career etc., contributing to decisions made by both the employed and unemployed to look for work outside the RC. Exploiting the institute of fixed-term work was indicated in cases of other companies established by the RC or LGUs, as well.

3.6.5. Inspection services

'At one point this summer, an inspection turned up in the cafe. The inspector spent a lot of time there and produced a whole pile of papers. Later on, talking to my boss, I heard that he was planning to physically attack and hurt a certain inspector, should he come again. I also heard that he would use some connections of his to sort the situation out. I never found out what happened next because I left the job.'

Complaints regarding the work of inspection services are predominantly focused on the duration of proceedings conducted by competent bodies following workers' petitions.

It is unsurprising that workers and unemployed persons ask for urgent action to be taken by inspectors after they were laid off, and the employer failed to give them back their documentation or de-register them from the mandatory insurance funds, because, as a consequence, they cannot be employed by another employer or register with the CES. Typically, they did not receive the minimum wages, and were often not provided with a calculation of owed and unpaid salaries based on which they could institute an enforcement procedure with the Financial Agency (FINA). Although the duration of an inspection procedure varies with regard to the complexities of a particular case, it primarily depends on the adequate number of inspectors, the number of petitions being processed and the workload created by cases in which they are obliged to act ex officio.

Although the duration of an inspection procedure varies with regard to the complexities of a particular case, it primarily depends on the adequate number of inspectors, the number of petitions being processed and the workload created by cases in which they are obliged to act ex officio.

As the complexity of cases cannot be foreseen in advance, along with strengthening human capacities and possible reorganisation of the services, a solution needs to be found for inspectors not to be overburdened with cases where they are obliged to act ex officio, such as in the case of labour inspectors rendering decisions in accordance with the Act on Securing Workers' Claims.

As for procedures conducted by MPA administrative inspectors, it is their lengthiness in particular that is pointed out, as well as a small number of immediate inspections carried out, which we had indicated in the 2016 Report and in individual cases. With the coming in effect of the new Administrative Inspection Act (AIA), we are expecting the situation to improve, with more human resources, new organisation and better training. We had pointed at the need to amend this law in more detail through e-Consultation, and our recommendations were partially accepted. It is particularly important to re-organise administrative inspections in state administration offices, to bring inspectors closer to subjects of inspection, and thus reduce costs and provide for more frequent and comprehensive immediate inspections. However, as the proposed draft did not specify the period in which the administrative inspection is obliged to notify the petitioner of actions they have taken, this will certainly result in a large number of complaints about the work of inspectors, to both the Minister of Public Administration and the Ombudswoman, but also to other institutions that citizens usually contact in cases of administrative silence.

Citizens who file complaints to the school inspection service asking for inspections of irregularities in the work of educational institutions often do not know that, in cases when a school inspector notifies them that conditions have not been met for instituting an inspection, or when they do not receive such a notification at all, they may declare an appeal to the MSE within 30 days of filing a complaint. Although the number of complaints about the work of school inspectors has been on a decrease in recent years, MSE figures on resolving appeals procedures show that out of 41, as many as 15, or 36.58%, were annulled in the second-instance procedure, which is evidence of inadequate expertise and level of training of the inspectors, due to which they must be additionally trained, and the quality of their work improved. Additionally, the MSE has emphasised that the present number of inspectors does not meet the actual needs for carrying out inspections, and it should be increased.

RECOMMENDATIONS:

73. To the Croatian Employment Service, to duly check the execution of contract obligations in line with approved requests to use active employment policies, and to provide appropriate advisory support to both the persons included in the policies and their employers, and to implement activities related to terminating contracts and returning unpaid funds in a timely and appropriate manner;
74. To the Croatian Employment Service, to clearly define in the conditions and the manner of using funds for implementing active employment policies the elements, besides the basic requirements, taken into consideration in evaluating each individual application, and to ensure consistency and transparency of evaluation;
75. To officials in ministries and other state administration bodies, to appoint persons that enjoy the trust of employees as ethics commissioners;
76. To officials in ministries and other state administration bodies, to pass decisions on the rights and obligations of civil servants accompanied with appropriate justifications;
77. To the Ministry of the Interior, to draft amendments to the Police Act that will expressly state the maximum duration of the performance of tasks of another post following an order in writing by the immediate superior;
78. To the Ministry of Foreign and European Affairs, to take timely measures aimed at uncovering and sanctioning irregularities, especially in the diplomatic missions and consular offices of the Republic of Croatia abroad, and to assign staff to the diplomatic missions and consular offices based on transparent and objective criteria, taking into account their expertise and capabilities;
79. To the Ministry of Labour and Pension System, to reconsider the existing legal framework defining the institute of working on fixed-term contracts and the related misdemeanour provisions, in order to limit abuse and for planning more targeted supervisions to uncover irregularities;
80. To the Ministry of Science and Education, to increase the numbers and improve the quality of work of school inspectors;

3.7. DISCRIMINATION IN THE AREA OF LABOUR AND EMPLOYMENT

'When I came out of the job interview I felt very bad, upset, humiliated and offended. When I got home, I couldn't stop crying and felt embittered because it had never happened to me to not get a job on account of my skin colour, with the commission suspecting me not being a Croat because of my darker complexion.'

Discrimination in the field of labour and employment is certainly one of the most complex areas of the Ombudswoman's work, as evidenced by the findings of a 2016 survey of the attitudes and level of awareness about discrimination and its manifestations, which is described in more detail in the chapter on combating discrimination on the national level and the problem of underreporting. Complaints in this area make over 40% of the total number of discrimination-related cases in which we took action in 2017, most often related to social position, education, political and other conviction and health situation in the field of labour, and to age-based discrimination in the field of employment.

These complaints, as well as figures provided by trade unions and CSOs, show that employers treat workers in different disadvantageous ways, with an overly broad interpretation of the autonomy of business policies, frequent financial imbalance between workers and employers, and a lack of evidence hindering the protection of workers' rights.

Discrimination in employment

'So far, I have applied for a job four times, but each time it was the younger candidates who were employed. Even though there were more vacancies advertised in the calls for applications than candidates employed, I found out in informal communication that I was too old.'

In 2017, age as employers' motive for selecting candidates for employment was pointed out as the significant ground for discrimination. In the previous years, we had reported that disadvantageous treatment based on age mainly affected workers aged 50 and over, but the 'desirable' age limit dropped in 2017, with considerably younger candidates being put in a disadvantageous position in some cases.

The Ombudswoman was contacted by complainants who had failed to meet the conditions set in a call for applications for the position of a flight controller, as the employer assessed that younger candidates were more likely to successfully complete professional training and perform job tasks on a higher level, assuming that they had more favourable psychophysical qualities. Taking account of the high costs and duration of training, and the specifics of the workplace, the employer had defined the eligible age limit for candidates from 20 to 26

In the previous years, disadvantageous treatment based on age mainly affected workers aged 50 and over, but the 'desirable' age limit dropped significantly in 2017,

years, thereby putting persons possessing the required qualifications, but being outside the age limit, in a disadvantageous position. As the abilities of each potential candidate do not necessarily, or at all, have to be conditioned by their age, and taking into consideration that the level of performance of the tasks of flight controllers directly affects safety of many people, the employer was suggested to revise the decision on the upper age limit, and to apply a more intensive, individual approach to candidates in order to check their qualities essential for the job. Paying regard to the Ombudswoman's recommendation, the employer raised the upper age limit, taking account of possible psychophysical variations in particular candidates.

Unlike defining the eligible age limit in such a transparent manner, in this case related to the specific nature of the job, age-based discrimination in employment is usually carried out in much more sophisticated ways in order to eliminate older-age persons from the list of eligible candidates. The age limit is typically not stated in the conditions for the job, and cannot be discerned from other employment criteria. However, after the process of carrying out a call for applications finishes, the age and qualifications of selected candidates often show that the employer took it account, with younger candidates normally more desirable. In such situations, it is more difficult for candidates who have been discriminated against to prove wrongdoing, as in most cases the selection process includes an interview, which is also evaluated in making a final decision, yet being the least transparent and allowing manipulation in making the final selection.

In rare situations, the employer's intention to employ younger candidates was complemented with informal statements made by persons involved in carrying out the selection process, which, if corroborated by credible witnesses, would represent precious evidence in conducting an anti-discrimination procedure.

CES statistics also point to age as being an exceptional problem in employment. According to CES figures, 33.1% of the total number of registered unemployed persons and 34.8% of monetary unemployment benefit beneficiaries were aged 50 or over in 2017. Once out of work, it is very difficult for such persons to find new employment, as they are not considered desirable workforce. The problem of inadequate solution of the high rate of unemployment within this age group was also stressed in the EC Report on the RC 2018.

Apart from age, complainants contacted us with regard to discrimination in employment on the grounds of their ethnicity, with the Roma national minority in the RC affected particularly hard. Employers still find employment of the Roma unacceptable, mainly due to the widespread stereotypes about their way of life and work habits. Findings of a survey of attitudes and the level of awareness about discrimination and its manifestations indicate that as many as 28.4% of the respondents think that the Roma employed in the service sector detract customers, while 24% stated that, if they had their own business, they would have a problem employing a member of the Roma national minority. The opinion by over 48% of the respondents that the Roma are not willing to work and live off social benefits certainly contributes to these figures.

Discrimination in labour

'I'm a mother of five, with three children still in regular education. I can't accept going into early retirement, because such pensions are very low and would significantly affect the socio-economic status of our family. It is my advanced age that puts me in a disadvantageous situation in relation to other unemployed persons in the labour market.'

Citizens' complaints to the Ombudswoman clearly demonstrate the connection between workers' rights and the economic situation in the country. Although the legislative framework and demands on the goods and services market frequently put considerable burden on employers striving to meet set business goals, difficult economic circumstances, or their own ambitions, must not be reflected in violations of workers' rights.

Workers are often forced to choose between putting up with various violations of their rights, losing a job, or leaving the country. Figures by trade unions and the NGO *Mobing* indicate that unfavourable treatment by employers was particularly aimed against older-age workers, those with ruined health, members of trade unions, and workers with different political convictions in relation to their superiors.

As in discrimination in employment, the age limit for less desirable workers has dropped in the case of those already employed, as well. For instance, a valid judgement was rendered in 2017 against a company that had been established to consider an employee in their early thirties as 'worn out', with the employer stressing that they wanted new, younger workers who would replace him. The employee's work contract was eventually terminated, but he sought and won protection from the judiciary. This case points at more frequent workforce turnover by some employees, i.e. shortening of employment period of newly-hired workers, who rather soon become 'too old' for the jobs they perform. Such hiring policy and the uncertainty regarding the duration of employment affect the opportunities for promotion, professional training and acquiring new qualifications, unquestionably contributing to decreasing the quality of employees' private and family lives.

However, such cases of replacing workers of this age group with younger ones are still less prevalent in relation to cases of discrimination of workers aged 50 and over. Last year, the practice continued of some companies to use new job systematisations and technology-related redundancy lists to terminate work contracts of older-age workers. In doing so, some employers did not take into account the length of the employment, age of the employer, or the obligations afflicting them. In some cases of work contract terminations this resulted in putting the existence of whole families in question, as in the cases of workers sustaining the schooling of their children, due to their poor re-employability.

Despite their unenviable position in the labour market, older-age workers are seldom sent to retraining, which would make them more competitive for other positions with the same employer, and help them avoid being laid off due to business-related reasons. The lack of training provided to working age persons aged 55 to 64 is mentioned in the EC Report on the RC 2018, as well, which stressed the need to improve adult education, especially of older, lower-qualified and long-term unemployed persons.

According to CES figures, as many as 40 employer's notifications of collective redundancies were received in 2017. Out of the total 3581 workers made redundant, the most were aged 60 or over, followed by those from 55 to 59 years of age.

The NGO *Mobing* has been warning of disadvantageous position of older-age workers in the labour market, too. Last two years, this NGO has mostly been contacted, with regard to various forms of discrimination and harassment, by workers who had just begun working, and those aged 50 and over. 57% of them were employed in private companies, 20% in crafts, and the rest by other employers.

This NGO points at defining the place of work in work contracts as yet another way of putting older-age workers in adverse position. By stating 'the Republic of Croatia' as the place of work, employers keep the possibility to assign employees anywhere around the country, and, should they decline, they bear the consequences, including termination of employment. At that, due to a broad interpretation of business policies, competent authorities rarely question the grounds for and effects of such decisions.

Taking account of the number of older-age workers putting up with negative effects of job systematisations in relation to the number of related complaints submitted to the Ombudswoman, it can be concluded that a considerable percentage of people are not even aware of discrimination they are subjected to. It shows, however, that, in situations when broader effects need to be realised, it is trade unions who have an important role and who often address the Ombudswoman pointing at discriminatory effects of employers' business decisions at the expense of certain categories of workers. At the same time, involvement in the activities of trade unions is one of the reasons for frequent discrimination against workers, as claimed by workers and some trade unions. In cases of discrimination against workers active in trade unions, they are forced to work overtime, limited in their use of holidays and days off, hampered in promotion opportunities, retaining employment etc. It is union commissioners who find themselves in a particularly precarious position, often under more intensive supervision by the employer in order to sanction them for every mistake they make, and terminate their work contracts.

Workers leaving trade unions out of fear of their employees affects not only the effectiveness of union activities, but also the protection of workers' rights. Workers active in trade unions are forced to work overtime, limited in their use of holidays and days off, hampered in promotion opportunities, retaining employment etc., but it is union commissioners who find themselves in a particularly precarious position.

Some employers openly express their negative attitude towards the activities of trade unions and their members, stressing that companies with no trade unions are more successful, conditioning employees' retaining of employment by their not joining the union, trying to find out the names of union members, or carrying out unlawful supervision of the union's establishment and activity. As a logical consequence of that, workers fear losing their jobs. While some persist in union membership, at the risk of being laid off and protecting their rights through the judiciary, some decide to drop out.
During 2017, employees in companies also complained of discrimination based on health status, with workers on long-term sick-leaves denied payment of Christmas bonuses or their work contracts were

not extended after expiry, in relation to which the Ombudswoman warned of discrimination, issuing recommendations for improvement.

As for discrimination on the grounds of political convictions, the most complaints were filed by civil servants objecting to unfavourable treatment by their superiors. The political convictions did not necessarily have to differ, as those held by the victim could be perceived in an erroneous manner. However, as the ADA deems placing of a person in a less favourable position based on a misconception of the existence of discrimination grounds as discrimination, too, the absence of the victim's political conviction on the grounds of which they have been put in an unfavourable position does not preclude the discriminator from carrying out unlawful action. Employees are faced with the challenge of proving the probability that a political conviction or a misconception thereof was the reason for unfavourable treatment, as such attitudes are seldom openly expressed by discriminators.

In 2017, complainants also contacted us due to extended discrimination on several grounds, which severely affects the victims, particularly in working environments with a considerable number of employees and in vertical harassment. In such cases, it is important not only to remove the negative effects of discrimination on the specific complainant, but also to act preventively in relation to all employees. Measures for eliminating discrimination in the long run certainly include training of all employees in the legal standards of citizen equality. Namely, we received complaints in 2017 which completely lacked an identification of the grounds for discrimination, which stated grounds not expressly mentioned as such in the ADA, recognised no difference between discrimination and mobbing, or other workplace violations, and which considered all unfair or unlawful conduct by the employer to be discriminatory. With regard to different ways of protecting workers' rights, depending on the type of violation, it is important to work on employee training, lest they miss out on protecting their rights due to expiry of deadlines.

Ultimately, although discrimination in the field of labour and employment remains one of the most complex areas of our work, the year 2017 was also marked by a very positive action taken by 34 Croatian companies and organisations, which signed the 'Diversity Charter Croatia', pledging themselves to implementing the policies of diversity and non-discrimination. The employers taking part had realised that the development of a diverse working environment, by promoting integration of employees of all profiles, creates happy and loyal workers and positively affects doing business. One of the goals of the Ombudswoman's work is to include as many employers as possible as signatories of the Charter, thereby practising the policies of diversity and non-discrimination.

RECOMMENDATIONS:

81. To the Croatian Employment Service, to continue training stakeholders in the labour market, particularly employers, on discrimination in the workplace and employment procedures;
82. To trade unions, to train union commissioners on the application of Croatian and European anti-discrimination law in the field of labour and employment;
83. To the Croatian Employers' Association, to conduct regular workshops, as part of training provided to its members, on the application of Croatian and European anti-discrimination law, particularly in the field of labour and employment;

84. To local and regional government units, to organise training on discrimination in the workplace and in the field of labour and employment for workers employed in legal persons owned or established by them;

3.8. RETIREES AND OLDER PERSONS

3.8.1. Social security of older persons

„And so my life goes by... with a pile of medicines... I am 64 years old ... unable to work, I don't understand anything anymore. I live alone... a tenant... Monthly revenues of HRK 1,460. Is that life? No... Right?"

Just as it is the case in most European countries, the population of the RC is also getting older, which is, in the context of demographic developments, covered in the chapter on regional development. The creators of public policies are more and more aware of ageing, as they are facing the challenges of planning for the care for the older persons over the long term, as well as several burning issues.

The Ombudswoman's recommendation from the 2016 Report to adopt a social care strategy for older persons for the period 2017-2020 was implemented in 2017, bringing two important new developments: expanding the status of care worker for older persons, and introducing a national pension for the socially at-risk older population. In the context of introducing the status of carer, however, the Strategy does not provide any detailed guidelines on the timeframes, and numerous older and seriously ill persons still cannot balance their personal and professional lives, which is elaborated in greater detail in the chapter on age-based discrimination. The anticipated introduction of the social pension, proposed in the reports for 2014, 2015 and 2016, should, on the other hand, mitigate the risk of poverty for those who are not old enough to qualify for an age-based pension, or other income, and who have in large part been dependent on social welfare. It should be introduced at a faster pace, as the poverty risk among the older persons has, according to EC and Eurostat data, significantly exceeded the European average (24.3% compared to 13.9%). Only an analysis of the social welfare and pension systems and of EU practices has been planned for 2018. Criteria and parameters for the calculation of pensions are to be determined in 2019, and the establishment of the legal framework is to take place only in 2020. Despite the fact that, at this point, there are many unanswered questions, the main concern is whether the national pension will be implemented in 2020, given the unpredictability and perennial possibility of economic and political crises.

The GMB for older persons' household members should certainly be raised until the national pension is introduced, as they would otherwise face the risk of poverty and social exclusion.

The financial benefits that older persons currently use most are the GMB, the assistance and care benefit and occasional one-off benefits. Those older than 65

represent about 10% of the GMB users, 52% of whom are men. This benefit is HRK 920.00 in the case of an older single person without income, but this amount is only HRK 960.00 if two persons live in the same household. Even when the relevant entitlement for vulnerable electricity users (HRK 200.00) and the housing entitlement (which can equal up to half of the GMB available to a single person, i.e. up to HRK 460.00) are added to the GMB, the total of monthly social benefits is not sufficient to meet the basic living needs of the older persons. Those who are dependent on somebody else's assistance and care or those with a health condition can obtain an assistance and care allowance, which has been raised with the amendment to the SWA, which enters into force on 1 April 2018. The personal disability benefit was raised from HRK 1,250.00 to HRK 1,500.00, and the full assistance and care allowance from HRK 500.00 to HRK 600.00. The GMB for older persons household members should certainly be raised until the national pension is introduced, as they would otherwise face the risk of poverty and social exclusion.

Numerous older persons living alone can no longer take care of their needs due to reduced functional capacity. The at-home assistance service, through catering, performing house chores, providing help with personal hygiene and meeting other daily needs, enables them to live their lives independently for longer, and to remain in their homes. This service can be obtained by a social welfare centre decision as part of the Social Services Network, and some forms of this service are provided outside of the Network by certain charities.

According to the MDFYSP, the at-home assistance service was provided to 4,551 users as of 31 October 2017. These services were provided in 9,170 cases, of which 3,458 cases consisted of help with house chores, 2,402 meeting basic needs, 2,055 providing food-related services and 1,255 providing personal hygiene. This data clearly demonstrates that only a small number of older persons in need actually use this service, in part due to restrictive legal conditions and limited accessibility. In fact, this service can be obtained only if help cannot be provided by the spouse or children, if the person has not concluded a maintenance-for-life/until-death contract, if the service can be provided in the place of residence, if the person has not sold objects or real-estate of significant value in the past year, and if their monthly revenue does not exceed HRK 1,500.00. The MDFYSP concluded contracts with 170 service providers across the RC, but their distribution per county is uneven, with as many as ten in certain counties, and only two in the Međimurje, and one in the Varaždin County.

The social service of at-home assistance should be available to older persons regardless of where they live, and the criteria for obtaining it should be simplified, so that it becomes accessible to all pensioners with below-average pensions, as well as to those who have started judicial proceedings of breaking off the maintenance-for-life/until-death contracts on the grounds of a failure to fulfil contractual obligations, with the sale of real estate when concluding an until-death contract not considered as a separate condition.

The social service of assistance at home should be available to older persons regardless of where they live, and the criteria for obtaining it should be simplified, so that it becomes accessible to all pensioners with below-average pensions, as well as to those who have started judicial proceedings to terminate maintenance-for-life/until-death contracts.

The implementation of the project "*Zaželi* (Make a Wish) – programme of employment of women", which attracted a number of non-governmental organisations, municipalities and cities, began in 2017.

Lasting for 30 months, the project aims to provide employment to women who find themselves in an unfavourable position on the labour market, particularly those over 50, those with disabilities and victims of family violence or human trafficking. It is planned that around 3,000 women would be employed as caregivers for almost 12,000 older persons, especially in rural areas and on islands. LGUs are eligible to submit projects, partnered by the CES and SWC, and the initiative is financed by the European Social Fund.

Apart from help in meeting basic needs, the older persons should be offered activities that raise their level of social inclusion. Senior centres, which are active as part of decentralised homes for the elderly and infirm of the City of Zagreb, as well as in other cities such as Pula, play an important role in this respect, as they offer not only daily accommodation and assistance at home, but also the delivery of meals, the possibility to rent orthopaedic equipment, advisory services and various workshops. Such activities are very important, and research conducted in the Brod-Posavina County as part of a project of informing and counselling older persons shows that those who live in their homes wish for local communities to provide them with additional options for their free time, with sports and cultural activities and with possibilities of lifelong learning, other than those provided by pensioners' associations.

Homes for the elderly and infirm persons

Retirement, adult children moving away, and illness or the loss of a partner, are situations in which many older persons are faced with doubts and questions about their future. This leads many to sign up for a place in homes for the elderly and infirm, which provides them with certain security, a living standard, and life in a community, reduces the concern about meals and cleaning, and provides them the services of continually present medical staff.

Although the MDFYSP still does not have the data for 2017, two state-owned, 45 decentralised and 97 so-called private homes, established by other legal or natural persons, for older persons and seriously ill adults operated in 2016, with the capacity to accommodate 17,620 users. Of these, decentralised and state-owned homes had the capacity of 10,900, including both residential and special care units. Bearing in mind that there were, according to the 2011 census, 758,633 persons older than 65 living in Croatia, it can be concluded these are relatively modest capacities, especially since decentralised and state-owned homes usually offer an affordable price of accommodation and high level of quality. The interest therefore significantly surpasses capacity, and the waiting period turns into a multi-year challenge. As the date the application is made represents the main criterion of obtaining accommodation, and since there is no consideration of revenue, accommodation in such homes, except in situations where it is financially the only possibility, remains primarily accessible to more well-off pensioners, particularly when the homes are located where they or their family live. There is more demand for accommodation from people who are immobile or have limited mobility, and some homes are modifying their premises to accommodate such users.

Pensioners with greater means choose private homes that offer a higher standard, while underprivileged pensioners who urgently need round-the-clock care due to illness and who had not applied for accommodation in decentralised homes, or who for other reasons cannot wait to get a

place in such homes, opt for less well-equipped private homes and family homes that offer only care and board.

A complainant had applied for a place in a decentralized home nine years ago, but was forced to look for more expensive accommodation in a private home due to her deteriorating health, while still waiting for accommodation in a ward for the seriously ill and the immobile of a decentralised home.

Since the internal acts of the home in question specify that the date that is relevant for changing an application from a residential ward to a ward for the seriously ill and immobile is the date when the change is requested, and not the date of the initial request for accommodation, and since applicants are not informed of this rule, they do not have full information on the mechanism of the waiting lists. In the case of this home, as is the case in many other decentralised homes, its internal acts are not available online but only upon request, and waiting lists are unavailable, and therefore non-transparent.

The MDFYSP is in charge of overseeing the quality of accommodation, and during 2017, inspectors controlled the work of 99 service providers of accommodation for the older and infirm persons and infirm, in most cases family homes. These controls, which for certain service providers were conducted several times, concluded that there was a lack of medical staff and a higher number of users than prescribed, and that the attention of relevant persons was drawn to the hygiene of the premises and equipment, and to the flaws in the provision of care and health care. Complainants also described the poor conditions in which they found themselves to the Ombudswoman, for example the meagre meals prepared with ingredients that were questionable from a health standpoint. They also pointed out the lack of supplies, e.g. gloves used by staff while providing care, and claimed sedatives were (too) commonly used to allow for fewer staff during night shifts.

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We also received several complaints from relatives of users who had passed away in family and private homes, stating that these persons would not have died, had appropriate care and food been provided. The MDFYSP conducted controls following such complaints, but it would have been easier to determine these facts if the control had been conducted earlier, while the users were still alive. Generally speaking, the control system of homes for the elderly and infirm should have a preventive function through regular, unannounced controls of all accommodation providers, which would require a significant number of inspectors, and in that respect the acceptance of the Ombudswoman's recommendation to raise their number. The new Regulation on the internal organisation of the MDFYSP was adopted in 2017 and established the Inspection Control Service. This Service has ten senior inspectors, instead of five, which should improve the quality and frequency of controls, but even this number is insufficient given the scope of work, and should therefore be further increased.

As for monitoring the conditions in homes for the older and infirm persons, as part of the recently concluded project by the European Network of National Human Rights Institutions on the human rights of older persons in long-term care, national institutions for human rights from six European

countries, including the Office of the Ombudswoman, visited a number of homes. The goal of this project was to become familiar with an approach to the provision of services that puts human rights as the focal point of planning and acting. One of the project's outputs is the Guidebook, which aims to help the creators of public policies throughout the EU to understand their obligations regarding the human rights of the older persons living in homes. The approach to the provision of human rights-based services must be focused on educating and raising the awareness of all stakeholders, on establishing clear and practical guidelines for service providers and on strengthening and supporting the users. The practice of visiting homes for the elderly and infirm continued in 2017, and representatives of the Office visited three larger homes in different parts of Croatia, of which two are decentralised, and one is privately owned.

Previous reports mentioned that, on top of the basic cost of accommodation, users often need to cover additional costs that vary between homes. In a case registered in 2017, the cost of a decentralised home did not include the care of immobile users or those with limited mobility, which was charged separately. Information on the amount of a user's pension and an authorised statement from the person obliged to provide maintenance are usually requested to ensure regular payments, and it is not unusual to request information on real-estate, other revenue and total personal property, which represents excessive invasion of the user's privacy and opens space for abuse.

A case of a decentralised home that did not include the care of immobile users or those with limited mobility, but rather charged it separately was registered in 2017. Information on the amount of a user's pension and an authorised statement from the person obliged to provide maintenance are usually requested to ensure regular payments, as well as information on real-estate, other revenue and total personal property, which represents excessive invasion of the user's privacy and opens space for abuse.

While an individual plan should be created for each user upon their reception into a home, and they should become acquainted with the life in the home and the available activities, the creation of these plans is in most cases not perceived as a priority. Users we spoke to pointed out that they received information about the life in the home "on the go" and from other users. Homes should provide users with various activities, such as board games, art workshops, exercise and other activities. In some homes, the low level of participation in the activities that are provided is not linked to the quality of the activities that are offered, but is rather explained away by saying that users would "rather rest in their rooms or watch television", which is not correct.

In one of the homes where a number of users reside in the ward for the seriously ill and the immobile, we were told that these are persons who are about to die, and who therefore have no interest in or need to be provided with anything other than food and care! Such attitudes insult human dignity in a most unseemly manner and are completely unacceptable. Indeed, at all times the staff should be systematically working on recognising interests, developing with activities adjusted to the users' health condition, and encouraging them to take part, while paying special attention to those who are immobile or have limited mobility.

The presence of qualified and motivated staff significantly affects the quality of the service provided. Vacancies for carers and nurses are filled slowly due to better-paid employment options abroad and

in tourism. This leads to perpetual understaffing, and to the need for staff to work harder and longer hours, which is not stimulating for them over the long term. While staff are expected to have basic communication skills and to exercise them, we witnessed cases in which they communicated with the users in an inappropriate manner, ignoring their queries, using high-pitched and baby talk, as if they were dealing with children, which leads to the conclusion that clear communication rules should be established. Moreover, the fact that homes are overpopulated is an additional factor resulting in a lack of patience and inappropriate communication. In order to establish clear rules, some homes have adopted the so-called Communication Protocol With the Users, which requires the staff to interact with users in a helpful, polite and professional way: to greet them, provide them with accurate information, address them using the first or family name, or the words "madam" or "sir", and encourage colleagues to do the same.

Hardly any of the homes we visited had a protocol on handling complaints, so users are not aware of how to file a complaint and complaints are therefore made orally and informally. Although some homes installed complaint boxes, these are seldom emptied. Moreover, users do not have information on how their complaint would be processed, or when, if at all, they would receive a reply, which is especially problematic if the complaint in question concerns violence from an employee or another user.

Violence against older persons

Violence against older persons still represents a major problem, and since its frequency has not been systematically documented, the Social Care Strategy for the Older Persons 2017-2020 provides that research should be conducted, followed by recommendations for prevention based on the research data obtained.

In accordance with the Act on Protection Against Family Violence, adopted in 2017 and in force since 1 January 2018, and based on recommendations of the Ombudswoman, the neglect of the needs of an older person that leads to distress or harms their dignity, causing physical or psychological harm, is also considered a form of violence, alongside physical, psychological, sexual or economic violence. For the purpose of this act, an older person is defined as one over 65, and an act of violence against an older person is a statutorily recognized form of crime.

Older persons, even when faced with an unbearable situation, hesitate to report violence out of fear that the consequences would influence other family members, and the fact that in some cases the perpetrator of the violence is the only carer. Therefore, the SWC should be mandated to urgently provide older victims of family violence with social services in their home.

Violence, however, often remains unreported due to shame, fear of revenge or the victim's sense of helplessness. Even when faced with an unbearable situation, many hesitate to report violence out of fear that the consequences would influence other family members, and the fact that in some cases the perpetrator of the violence is the only carer the older person has. Therefore, the SWC should be mandated to urgently provide older victims of family violence with social services in their home.

Members of relevant services often do not have sufficient understanding of and sensitivity towards complaints coming from older persons and do not pay attention to them. They often describe cases of violence as problems that are usual for different generations living together, and point out that the older persons are often "difficult" and do not tell the truth because of dementia or other psychological difficulties. MI and SWC staff should therefore be additionally sensitised and educated about violence against them, and special protection extended to the public sphere in order to provide protection in homes. The Ordinance on the Standards of Quality of Social Services mandates that service providers must have prescribed procedures for risk reduction, and for reporting and investigating suspected physical, psychological and sexual violence. However, this Ordinance applies only to service providers in the Social Services Network and does not contain provisions on misdemeanours.

„I am writing this so you could see and hear what is happening to old people, especially those who are infirm. One could say it is sad, pitiable and scary... when people are old, and don't have any relatives to protect them so at least they can die in dignity.
When we moved to the home for the older persons, the contract needed to be drafted and signed. Something, however, wasn't right as the contract didn't spell anything out the way we had agreed. As we were concluding the contract in our room, in the presence of a notary... my wife and I were alone, but there were five or six of them, we were absent-minded and couldn't tell the difference between a maintenance-for-life contract and an until-death contract. As soon as we signed the contract, they sold our apartment, after a few days for only HRK 40,000. I can understand the selling of the apartment, but I can't understand why they stopped providing my wife with any care or treatment after a few days... so I had to warn them and complain, and those nurses would get angry and complain why I spend so much time with my wife. I told them: "For God's sake, we have been married for 56 years, I can't watch how you are torturing her and neglecting a human being in such a way!" When I warned them and asked for an ambulance, they said she was fine but called an ambulance nevertheless, and it took my wife to the hospital where she then died."

Abuses of maintenance-until-death/for-life contracts are still common, as pointed out in the previous reports. The amendments to the Social Welfare Act, taking on board the Ombudswoman's recommendations to ban social service providers, their employees and family members from concluding maintenance-until-death/for-life contracts, are certainly a positive step. It was clear from several earlier complaints that owners of family and private homes insisted on concluding these contracts alongside the conclusion of the accommodation contract; following these changes, this practice should now be impossible.

The older persons are often talked into signing maintenance-until-death/for-life contracts hurriedly and without a full understanding of the legal consequences, and the difference between a maintenance-for-life contract and an until-death contract remains unclear to many. This is supported by information from the Legal Information Centre in Slavonski Brod, which, as part of its projects, informs the older persons about their rights (and 75% of the legal advice concerns such contracts).

The older persons usually ask for help only at a later point, when, following the conclusion of an until-death contract, they lose both their assets and care, and the only remedy left is a court proceeding

for the termination of the contract. Since the reasons motivating them to conclude such a contract still exist – namely that they do not have sufficient resources for life, their health is deteriorating, they cannot take care of their own needs – the slow reaction of the judicial system can be fatal. We documented a case in which the court deliberated for over a year on a 91-year-old maintenance recipient's appeal of a first instance verdict, and in numerous cases the older persons complained about the long periods of time between court hearings. The MJ unfortunately does not have information about the number and average length of court proceedings to terminate until-death contracts and the number of proceedings during which the claimant (maintenance recipient) died. These data are important for the evaluation of the condition and the efficiency of the contract-breaking mechanism, and would certainly help when assessing the need to introduce further protection mechanisms, such as establishing a register of maintenance providers and limiting the number of contracts they can conclude.

Although the Government of the RC, in a previous opinion on the Ombudswoman's report, pointed out that it considered it unacceptable to prescribe control of the fulfilment of obligations in private contractual relations between persons with legal capacity, we would like to underline that the provision of maintenance consists of ensuring the existential needs of the recipient of maintenance, and that it is the responsibility of the state to guarantee a system that prevents situations wherein the maintenance provider's abuse threatens the existence of the maintenance recipient, regardless of the recipient's contractual intent (*animus contrahendi*).

Additionally, maintenance recipients who initiated court proceedings to terminate until-death contracts on the grounds of non-execution or abuse are not eligible for GMB, assistance and care allowance, assistance at home or the right to long-term accommodation. In this respect, it is necessary to amend the SWA to foresee an exception that would protect the existence of maintenance recipients even during the course of court proceedings to terminate such contracts.

Finally, for a number of years, the UN has debated the possibility of providing better protection for the rights of the older persons. This is due to the fact that existing international conventions only implicitly protect them, and that certain provisions applicable to them are difficult to analyse in a comprehensive way since they are contained in several documents and there is a significant normative void and problems in ensuring implementation. Certain vulnerable groups (children, persons with disabilities, women) are protected by special UN conventions, and the Convention on the Rights of Older Persons would, as a unique legal instrument, provide a comprehensive, systematic legal framework for the promotion and protection of the rights of the older persons, improve their visibility in society, ban discrimination in all aspects of life and define and increase the states' responsibilities.

RECOMMENDATIONS:

85. To the Ministry of Labour and Pension System, to expedite the process of introducing a national pension;
86. To the Ministry of Demographics, Family, Youth and Social Policy, to ensure that the service of assistance at home is accessible to the older persons in all parts of RC and that revenue limits for obtaining this service are reduced;

87. To the Ministry of Demographics, Family, Youth and Social Policy, to develop criteria for acceptance and a system of waiting lists in homes for the elderly and infirm that are financed from the state budget;
88. To the Ministry of Demographics, Family, Youth and Social Policy, to increase the number of inspectors in the Inspection Control Service, to ensure continuous control of accommodation service providers for the older persons, with an accentuated preventive function;
89. To the Ministry of Justice, to collect data on the number and average duration of termination of until-death contracts on the grounds of non-execution and the number of recipients of until-death maintenance who died during the process, as well as ensure the timeliness of the termination procedure;
90. To the Ministry of Demographics, Family, Youth and Social Policy, to provide the older persons who initiated judicial procedures to terminate maintenance-for-life and until-death contracts on the grounds of non-execution with social welfare rights;
91. To the Ministry of Foreign and European Affairs, to take a more active role in the UN's Open-ended Working Group on Ageing for the Purpose of Strengthening the Protection of the Human Rights of Older Persons, and support the efforts to begin work on the Convention on the Rights of the Older Persons;

3.8.2. Pension insurance

„I retired at the age of 60, after a career of 42 years. My first pension was HRK 1,950 and I was shocked... Years later, in 2006, I received supplements and my pension rose to HRK 3,150. My wife's pension was HRK 2,750, and with that on top of my HRK 3,150, we could live better. When my wife died five years ago, I was left alone with my pension. That is not enough for life; I have five grandchildren whom I can't even afford to buy nice chocolate. I am 83 years old and have started contemplating moving to a home for the older persons. There are no homes cheaper than HRK 3,000 so I won't be able to move into one without your help."

According to data of the Croatian Pension Insurance Fund, there were 1,232,651 pensioners as of December 2017; 1,140,414 persons acquired the right to receive a pension according to the general regulation, i.e. the Pension Insurance Act. Other users acquired that right according to special rules, notably 14,474 based on the Act on the Pension Rights of Active Military Personnel, Police Officers and Authorised Officials; 70,963 based on the Act on the Rights of the Croatian Veterans of the Homeland War and Their Families, and 6,800 based on the contract between the RC and BiH on cooperation regarding the rights of the war victims in BiH who were members of the Croatian Defence Council and their families.

Pensions based on the general rule are usually lower than those based on special rules, and as many as 180,521 persons who retired based on the general rules received pensions lower than HRK 1,000.00 in December 2017.

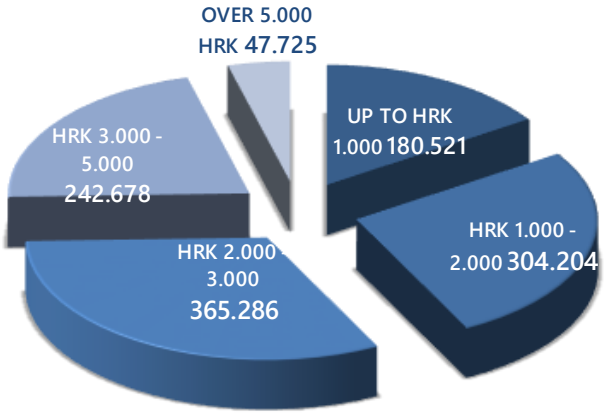
Pensions based on the general rule are usually lower than those based on special rules, and as many as 180,521 persons who retired based on

the general rules received pensions lower than HRK 1,000.00 in December 2017. We hear from pensioners who spent their career as teachers or engineers, who tell us they feel impoverished and humiliated as they cannot live normally on their pensions without assistance from others.

Future pensioners who were younger than 40 in 2002, when the second pension pillar was introduced and who will, according to the Pension Insurance Act and the Mandatory Pension Funds Act, receive pensions from both the first and second pillars, without the 27% supplement, fear they would face a similar or worse future. Comparing their situation with that of their peers born before 1962, who have already acquired their right to a pension from the first pillar only with the additional 27% supplement, calculated that their pensions would be significantly lower, which has been covered by the media recently. Although the first wave of pensioners, women born in 1962 who will receive pensions from both pillars (without supplements), will not start until 2019, we have received complaints from train drivers who are eligible for accelerated retirement and to whom these rules already apply. Although the MLPS is considering enabling a pension supplement for users of the first and second pillars in order to apply the principle of solidarity in a more just manner, and to reduce the large difference in pensions between the current pensioners and those who will receive their pensions without the supplement, there is no answer to the question of what would happen to those who have already been covered by these provisions.

A comprehensive pension system reform has been announced that will stipulate a later retirement age by penalising early retirement more heavily, equalising the retirement age for men and women more quickly and reducing the benefits for accelerated retirement. This will implement the recommendations of the EC, with the exception of harmonising pensions based on general and special rules. It is envisaged that the number of pension users who would be able to work would be expanded, which would, according to the MLPS, reduce the number of pensioners subject to poverty and raise the revenue and social security of the older persons. According to the Pension Insurance Act, only certain pension beneficiaries are allowed to work: those benefitting from age-based pensions may work up to half-time, while those benefitting from disability pensions due to professional disability or partial loss of working ability may work full-time. We welcome the possibility for beneficiaries of the early-age pension, for instance, to be given the possibility to engage in some form of professional activity, particularly since those are persons who are younger than the age-based pension beneficiaries, but the dilemma remains whether MLSP should view the poverty risk reduction only through the prism of pensioners' work.

NUMBER OF PENSIONERS AND AMOUNT OF PENSIONS PURSUANT GENERAL RULE FOR DECEMBER 2017



The pensioner population's work should primarily be assessed in the context of improving life satisfaction and quality, enabling the transfer of know-how and establishing new social contacts, and it should not, after a full working career, be seen as a source of revenue for living.

The complaints relating to pension insurance addressed to the Ombudswoman mostly refer to the work of the CPIF in the period before and during the process of recognising pension rights. The complaints are usually aimed at the length of the process and the lack of information. The beneficiaries inform us that they are frustrated by the waiting periods and the fact they are not able to receive information about the beginning of pension payments from the CPIF staff.

Although the process of assigning pensions is administrative by nature, and the CPIF needs to adopt a decision in 30 days pursuant to the APA, a number of requests are not processed within that timeframe. It should be pointed out that persons who are no longer working and have submitted a request for a pension usually do not have any source of revenue until the pension is paid, which means that a lengthy process puts these individuals in a precarious financial situation. This is especially true with respect to widows with low pensions or no pension at all, who do not have sufficient sources for living until their family pension is recognised. We documented a case in which the Regional Office in Pula took from July 2016 until October 2017 to process the family pension of a widow whose personal pension was only HRK 960,00. As the documentation did not provide any reason for such a lengthy process, it is clear there are problems in the manner in which work is organised in that Regional Office.

Complaints about the length of procedures also relate to the complaint procedure, to instances where a decision needs to be adopted based on a decision of an administrative court, and to claims that the CPIF's archives are poorly managed and that their staff is reluctant to conduct searches, which results in calculations that may not be accurate and could harm pensioners' interests.

Beneficiaries often complain about the lack of information about their status in the insurance system and the types of rights they can obtain. For example, an insured person with asbestosis was not informed that they had the right to a pension under more beneficial conditions, and in numerous cases complainants were not provided with timely information on how they, as pensioners, could maintain the status of craftsmen or directors in joint stock companies. Since one of the tasks of the CPIF is to provide professional assistance to insured persons while they are benefiting from their rights, it is justified to expect full and accurate information, which can be provided only by trained staff. The staff, however, are only sent written training materials, which is most certainly insufficient. Moreover, their professional capacities should be strengthened through regular training to harmonise the quality of the assistance they provide.

The pensioner population's work should primarily be assessed in the context of improving life satisfaction and quality, enabling the transfer of know-how and establishing new social contacts, and it should not, after a full working career, be seen as a source of revenue for living.

RECOMMENDATIONS:

92. To the Ministry of Labour and Pension System, in collaboration with the Ministry of Demographics, Family, Youth and Social Policy, as part of the reform of the pension system, to pay special attention to improving the position of the poorest pensioners;
93. To the Ministry of Labour and Pension System, to provide the 27% supplement to persons who retired according to the general rules during 2017 and 2018 and who didn't benefit from such a supplement, as part of the amendments that would make the 27% supplement available to the users of pensions from the first and second pillars;
94. To the Croatian Pension Insurance Fund, to assure conditions for the adoption of relevant decisions in deadlines pursuant to the Administrative Procedure Act;
95. To the Croatian Pension Insurance Fund, to strengthen the professional capacity of its staff by regular training, in order to harmonise the quality of the assistance they are providing;

3.9. AGE-BASED DISCRIMINATION

"...although, we recognize the physical weakening coming with age, we say that the elderly are hypochondriacs. We link age with wisdom, but we consider the old to be senile. We speak of the old age as of the golden years, but we believe the elderly are predominantly depressive and fearing death."
prof. Despot Lučanin

Although the young face negative social perceptions as well, the old age is determined both by biological and social dimensions which often include negative stereotypes towards the older persons, the so-called "ageism". Equally as the young who can contribute with new ideas to the development of the society, the elderly can add value to various areas of societal activities with their life experience. However, both the young and the old often remain at the margins of social and media interest.

Extended life span impacted the global rise of the elderly population, whose positioning in the society may present a challenge. Population aging opens many issues, such as the redistribution of available financial means, social role of the elderly, conditions and quality of life in the old age, self-sufficiency and social recognition.

Procedures and practices which would be unacceptable for any other social group are sometimes tolerated with respect to the elderly. The activist scene and advocacy of the rights of the elderly is underdeveloped, and boils down to a handful of CSOs.

Older persons are often perceived as a homogenous group dependant on others. Although their rights and dignity often find its way to the agenda of political negotiations and campaigns, gradually they fade out of focus, making a lot of them feel excluded, even from the discussions which directly concern them. Procedures and practices which

would be unacceptable for any other social group are sometimes tolerated with respect to the elderly. The activist scene and advocacy of the rights of the elderly are under developed and boil down to a handful of CSOs.

The media presentation of the elderly fits the existing social prejudices, and they are usually presented negatively. The power of the media should instead be used to present the realistic position of the elderly and report of their potentials, problems, successes and accomplishments and, thus, encourage social change.

While speaking of age-based discrimination, one must mention the labour market, as a key stakeholder of personal and social progress, which is visibly burdened, both with respect to the "too old" and the "too young". Irrespective of the LA guarantees against discrimination, which include anti-ageism, workers who are 50 and older, compared to other age groups, have a far steeper unemployment growth rate, and once they lose their job, almost in all cases, they remain long-term unemployed, with a weak chance for returning to the labour market. According to the study carried out by the MojPosao portal, 56% of the respondents stated that they often encounter job vacancy adds which include age limits for application. Two thirds suspect their age to be the cause for rejection, 31% for being too young, 35% for being too old, and to some, this was explicitly told during the job interview.

This was supported by the results of the Eurofund survey on the quality of working conditions, showing a significantly lower quality in the RC compared to Western European countries, indicating that the workers older than 50 were in a particularly difficult position. Irrespective of the evidence that they make equally good, and often, more reliable and motivated employees, the recorded share of 31% of workers aged 55 to 64 in the total population of the employed is one of the lowest in the EU when compared to the EU average of 55.2%.

Once they retire, the financial capacity of the elderly changes abruptly. The significant income drop causes multiple deprivation, especially in the aspects of life beyond basic existential needs. According to the National Pensioners' Convention of Croatia, 50% of retired persons received a pension amounting HRK 1348, which is below Croatian poverty line, and one third of persons older than 65 were at-risk of poverty and social exclusion. The chapter on social security of the elderly provides more relevant information. The amount of the retirement allowance, when compared to the salary, has been continuously dropping. It used to equal 78% of the salary 30 years ago, whilst today it equals 38%. According to the data of a preliminary research, by a group of authors, entitled "Narratives on the dignity of the older persons", the retirees with low socio-economic status cannot even afford certain types of food, such as fruit or certain kinds of meat, and cultural events or travelling remain unavailable even to the ones of higher socio-economic status, which leads to social exclusion and discrimination and impairs their dignity, quality of life, self-respect and maintenance of social links.

According to the statements of the Pensioners' Union of Croatia, the 2017 tax reform, caused an increase of retirement allowance only for the group of pensioners who received pensions over 6300 HRK, while the others with the lowest pensions experienced no increase.

However, according to the statements of the Pensioners' Union of Croatia, the 2017 tax reform caused an increase of pension only for

the group that received over HRK 6300, while the others with the lowest pensions experienced no increase.

The "new pensioners" still do not have an option to get postal delivery of their pensions, which neglects the reality of the health impairments caused by aging and is especially burdening for the most vulnerable persons with severely deteriorated health, the bed-ridden or living in isolated areas with no public transportation available. Since they can access their funds only through banks, they are forced to rely on the favours provided by relatives, friends or neighbours, who on occasions abuse their trust and exploit the situation to generate financial or other material gain.

The CSOs have been pointing to the problem of the elderly population being exploited by travelling salesmen and teleoperators visiting them in their homes, using vague language offering unfavourable contracts which include purchase of unnecessary equipment. Once they discover that they have been misled, usually, the refund or free of charge contract cancellation period has already expired.

The moment of moving to the elderly people's home is another life phase leading to crucial changes, it is marked by the loss of autonomy, change of life pace, sharing living space with strangers and loss of privacy, difficult or scarce contacts with friends and close persons. The decision to move into a home is often made under pressure, and due to the changes in structure and dynamics of life in the family which no longer can take care of their elderly, in cases of severely impaired health, sometimes it is arranged even without the consent of the institutionalized person.

On the other hand, the capacities for long-term institutional care of the elderly are insufficient, given the demand. More details on this topic are presented in the chapter on social security of the elderly. According to the MDFYSP data, at the end of 2016, 10,815 persons were living in residential care, while 30,779 applied for a place, which exceeds total capacity by almost twice. Such situation, combined with non-transparent waiting lists, allows various manipulations with received applications, and we recorded a case of an official legal act containing discriminatory admission criteria. Although in 2013, the MDFYSP forwarded instructions to all old people's homes, asking to abolish the discriminatory criteria and eliminate them from their Ordinances on admission and release, the beneficiaries continue to report that they still apply, however, the inspections did not confirm these statements. In addition, there is a large disproportion between the demand and available capacities, which opens the door to shady operations and employment of persons with no qualifications, working illegally and providing care for the elderly, which clearly raises doubt of the quality and professionalism of service provision.

The discrepancy between the needs and available capacities for elderly care became one of the greatest challenges in achieving the family-job balance. Although 17% of persons aged 35 to 49 take care of an infirm family member, they do not receive any institutional support, they have no possibility to take paid sick-leave or unpaid leave, no working hours flexibility or a possibility to get the status of a carer. Thus, they fully depend on their employers' (lack of) understanding. The medical care provided at home, which, due to the savings in the health care system, is rarely made available.

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All this impacts the quality of provided care negatively, and the possibility to meet the beneficiaries' wishes is unreachable. We received a complaint about a family doctor who approved access to only half an hour of medical care provided at home twice a week, to a 92 year old and bed tied patient, who died during our procedure,. Without going into expert medical arguments of such decision and simply by bureaucratically stating that she has been granted her rights according to the scope of the compulsory health insurance, the Croatian Health Insurance Institute (CHII) responded that the complaint was unjustified.

According to the data provided by a home care institution, the quantity and type of health care provided to the dying is inadequate, which is covered in more detail in the chapter on health. Due to the lack of capacities for palliative care, these patients are mostly left to the care of their families. Diagnostic and therapeutic procedures are regularly being approved which is also available to the patients who are partially able to take care of themselves. This is inadequate, given the state of the patients and the need for family training and support. According to the data collected for the period of three years, as much as 44% of their dying users were never approved the type of health care suitable for extremely severe or dying patients, the so-called DTP4.

The notion that the elderly visit doctors because they are bored or hypochondriacs is rather widespread. This impairs the execution of their right to health care and negatively impacts their dignity and self-confidence, it also demotivates them to visit the doctor's office and results in neglect of health problems.

Some forms of ageism and discrimination of the elderly exist in the health care system. Although, explicit cases of denial of health care on the grounds of age were not recorded by the health care system, the quantitative research "The Rights of the elderly in the City of Zagreb" found that 9% of the elderly reported being denied medical assistance after retirement. The results of this study indicate that in the medical profession, a notion that elderly visit doctors because they are bored or hypochondriacs is rather widespread. This limits the execution of their right to health care and impairs their dignity and self-confidence, it also demotivates them to visit the doctor's office and results in neglect of health problems. Inappropriate behaviour of the medical personnel during the provision of assistance and care to the elderly was also highlighted, including inappropriate communication, and several subjects mentioned that the doctors did not take them seriously.

Public spaces, goods and services can be a setting for age-based discrimination which is evident through ignoring the needs of the elderly, objectification (when elderly persons are being discussed as if they were not present in the room), insults, sometimes physical threats and by inaccessibility. For example, the research "Frequency of internet use by the elderly" found it extremely low for several reasons, from the lack of knowledge and IT skills, poor economic status to inaccessibility or lack of training programs for the elderly. Despite that, numerous areas of society functions are being digitalized with an increasing pace, providing no alternative. To use such technologies, apart from the knowledge, one needs to own certain appliances, which, given the poor financial state of the elderly, impacts them negatively and excludes them from public life. E-citizens, digitalised bank services which are linked to financial discounts, discount prices of products or services purchased online, communication with services and customer service are but some of examples how the position of the digitally illiterate elderly persons is being impaired, especially the ones with low education level living

in rural areas who on occasions do not even have access to electricity, not to mention the internet. To avoid this, an alternative path of traditional communication should remain available even after new technologies are introduced.

The Young frequently faced age-based discrimination in various areas of social life, such as education and training, health, social participation, voluntary activities, culture and the media. The ones of lower education level and income, social status or suffering from health problems were especially exposed.

The transition from the educational system to the labour market is an especially sensitive period, with the economic crisis additionally worsening the position of the young who are seeking employment to become independent or start a family. Although some statistical data, when presented isolated from a broader social context, point to the decrease of the number of young people in the total population of the unemployed, their employment continues to be difficult. Therefore, special measures have been developed to encourage their employment. One of such measures is the professional training without commencing employment (PTCE), allowing the young with no working experience in the profession they were educated for, to acquire experience and knowledge necessary to find a steady job. More information on the issue is presented in the chapter on the rights during unemployment.

Since the measure works in favour of the employers, who can, apart from getting financial incentives, employ even in the systems where employment was limited, the PTCE almost entirely replaced the internship institute. As such, the measure in a certain way became a barrier for entering the labour market through processes of regular employment. Used as a cheap substitute for regular employees, a large number of young people were hired in state bodies, where the employment ban is still in place, thus, with no chance to remain employed. Persons engaged through the PTCE scheme continue to be paid less than interns or other beginners and are deprived of certain workers' rights, such as paid sick-leave or the unemployment benefit after they stop working. Almost 70,000 people were covered by this measure and PTCE became a standard precarious transitional phase from education to the world of labour. The measure made the beginning of the career more uncertain and poorly paid, especially for the highly educated. According to the data provided by the CES for the period from 2011 to 2014, the coverage of the young by this measure was the highest in the regions with the lowest unemployment rates, where the chance for employment was the highest, whereas the less developed regions with above average unemployment rates recorded the lowest coverage of unemployed. Although university or academy graduates accounted for only 8.4% in the total number of unemployed, they were the most highly represented among the PTCE measure beneficiaries, 49.11%.

Change of the legal framework and narrowing the circle of potential PTCE beneficiaries made the position of the inexperienced in the profession they were educated for and older than 29 even more difficult. Although according to the data provided by the Croatian Youth Network, they accounted for 20% of PTCE beneficiaries, after the amendment, people over 30 cannot even qualify for non-paid placement, since it obligates the employer to pay social security contributions.

According to the Conditions and modalities for use of funds for implementing the active employment policy, the CES should only assess the compliance of the application with the criteria for individual measures. However, in practice, by exceeding this competence, they carry out the employability assessment for each candidate. Thus, we received a complaint considering the discrimination of

holders of the MA degree in nursing who were required to do professional training as part of their licensing process. Since the CES system does not recognize the Nursing MA qualification in the professions registry of the unemployed they are recorded as higher medical technicians/nurses. They were not eligible for the PTCE measure because their profession was categorised as scarce so the complainants were considered to be easily employable by the CES, even when they were recorded as unemployed for six months or more.

The discriminatory effect on the grounds of age was also identified in the Act on Housing Loan Subsidies, by which loans for purchasing apartment or a house were subsidized for citizens who, in addition to other criteria, met the age threshold of being younger than 45. Since the intention was to ensure favourable conditions to resolve their housing issue, the subsidies were available to the persons who met the provided criteria and who were getting loans through credit institutions. Taking all this into account, exclusion of persons older than 45 with unresolved housing status from the subsidy scheme, simply because of their age, was age-based discrimination which should be addressed by amending the Act.

Exclusion of persons older than 45 with unresolved housing status from the subsidy scheme, simply on account of their age, is age-based discrimination which should be addressed by ammending the Act.

A lack of harmonisation between regulations sometimes leads to age-based discrimination. For example, the Child Benefit Act links the eligibility for receival of the child benefit with the income census and sets other criteria such as being in regular education, which expires in the high school graduation year and upon reaching the age of 19. The extension may be approved because of illness exclusively. This is inconsistent with the allowed age of first regular enrolment into the first grade of secondary school which is 17 years of age, and the existence of some five-year secondary school programmes, such as the vocational-medical school, which means that regular students of final grades are 19 years old. Since they are persons who fit the criteria of being a regular student of a secondary school fulfilling their educational tasks regularly, this can be qualified as age-based discrimination, and the provision should be amended to provide child benefits to all regular students of secondary schools who fit the legally defined income census.

RECOMMENDATIONS:

96. To the Croatian Pension Fund, to allow postal delivery of pensions in justified cases;
97. To the Croatian Employment Service and the Ministry of Labour and the Pension System to develop additional measures for employing persons older than 50;
98. To the Ministry of Labour and the Pension System to, in addition to active employment measures, ensure the functioning of the labour market and the possibility for regular employment of young persons without working experience;
99. To the Ministry of Construction and Spatial Planning, to propose the amendment of the Act on Housing Loan Subsidies, by eliminating the age threshold from the eligibility criteria;

3.10. SOCIAL WELFARE

„My husband and I live off the guaranteed minimum benefit and assistance and care benefit. We are both ill, my husband is asthmatic and I suffer from diabetes and spinal pain... our living conditions are very poor, a wooden house with no running water or sanitary facilities, no bathroom, since it is winter time, I kindly ask you for help to buy food and winter supplies, footwear and clothing. I received the one-off benefit in November, for the stove, and you know how it is to eat bread and potatoes and canned meat spread twice a day when you are diabetic. Please help us, because my husband and I, once we pay for the waste disposal, water utilities, TV and medications we cannot afford not even a slice of meat, let alone fish or chicken... I wash my laundry by hand in the stream, and we wash ourselves in a plastic tub, and I have been watching on TV that people steal and throw away food, yet nobody can help us build an in-house bathroom or get running water in the house and a washing machine, at least a used one..

Poverty and social exclusion exist both in the RC and other EU Member States. According to the latest Eurostat report, the rate of citizens at-risk-of-poverty after receipt of social transfers, reached 17.3% on average for the EU-28, compared to 20% in RC. However, the 2016 data provided by the CBS show a slight drop to 19.5%. The at-risk-of-poverty rate represents the percentage of persons with available equivalent income below the at-risk-of-poverty threshold. For a single person it amounts to HRK 2180, and for a household with two adults and two children HRK 4577. Therefore, almost one fifth of the population in the RC lives below the at-risk-of-poverty threshold.

On the other hand, 27.9% are at the risk of poverty and social exclusion. These persons live in households with very low employment intensity or are severely materially deprived. Over a million of Croatian citizens fit this criterion. Out of this number, more than 500,000 live in severe material deprivation and cannot afford at least four out of nine basic requirements, for example, to eat meat or fish or vegetarian supplement at least every second day, to be able to cover an unexpected financial cost, to pay for the utilities, rent, make loan payments regularly, to ensure adequate heating in the wintertime, to own a telephone landline, washing machine, colour TV, a car or can afford a week of vacation away from home.

The CBS and the World Bank have created poverty maps of all the counties, cities and municipalities in Croatia, showing their poverty and multi-level deprivation profiles, identifying the areas with the highest threat of poverty. The social transfer analysis, according to the poverty map, shows that the social programs, implemented by the MDFYSP, are well distributed and that relatively high amounts of social transfers are distributed to the poorest local government units. However, the allocation accuracy varies significantly between the social programmes and the benefits. The GMB targeting was the best, whereas other benefits provided and managed by MDFYSP were weakly correlated to poverty. This could be an indicator that the system needs further enhancement.

Furthermore, the available analysis of poverty maps shows that cities record a lower at-risk-of-poverty rate in average (18.5%) compared to municipalities (27.1%), and social transfers achieve the highest positive impact in Eastern Slavonia and one part of the Šibenik-Knin County. With the unsettling information coming in about young families massively emigrating from Eastern Slavonia, efficient

social policy measures should be implemented to reduce this trend, combined with a better population and demographic policy focusing on the provision of guaranteed housing and existential stability to the young population.

21.4% of GDP was earmarked for all social security benefits, however only 0.2% for social exclusion and housing, which includes the GMB, the one-off benefits, the benefit for vulnerable energy consumers, residential and foster care for addicts, heating costs coverage, housing costs benefit and soup kitchen services.

The competent ministries, primarily the MRDEUA, MDFYSP, and MF, should use the poverty maps to diminish the regional discrepancies and eliminate poverty and social exclusion in the entire territory of RC, as a good tool for efficient fund allocation and use of EU Funds,.

According to the ESSPROS[7] methodology, the largest share of budget expenditure for social benefits is consumed by pensions and the health care, and the smallest on social exclusion, which remains unclassified in other areas, as well as the housing. 21,4% of GDP goes to social welfare benefits, but only 0,2% on social exclusion and housing, including the GMB, one-off benefits, benefits for vulnerable energy consumers, residential and foster care for addicts, heating costs, housing costs and soup kitchen services.

This data confirms that a large portion of Croatian citizens remains at-risk-of-poverty and social exclusion, especially when being severely materially deprived. Evidently, the social security system should be changed, and the social benefits should increase, since in the state budget the lowest amount is earmarked for these purposes. By raising social benefits, or by introducing the minimum income which was listed as one of the 20 principles of the European Pillar of Social Rights, the social welfare system should guarantee a dignified and better life for the most deprived citizens. This is supported by the first two goals of the UN 2030 Agenda for Sustainable Development – the world without poverty and hunger, closely linked to the eighth goal – the right to decent work and economic growth. Therefore, the social welfare system in the RC should be better coordinated with other systems, especially the labour market and education systems, because the persons with lower educational attainment are more often users of social benefits and face long lasting unemployed, which makes them reliant on the social welfare system for longer periods of time.

Persons who are capable to work, but remain unemployed for years, account for 50% of GMB beneficiaries. Free of charge additional training, retraining, opportunity for occasional work accompanied by efficient work activation measures and possibility for speedier labour market entrance should be ensured. In addition, employers should receive incentives to employ such persons. Although the public works scheme was supposed to become one of the more significant work activation measures, for this group of beneficiaries, no significant results were achieved, especially due to the implementation discrepancies on the local community level, which we addressed in more detail in our 2016 Report. GMB beneficiaries have been included in the public works scheme, and according to the latest amendments of the Social Welfare Act (SWA), they do not lose any part of GMB when

[7] https://www.dzs.hr/Hrv_Eng/publication/2017/10-01-05_01_2017.htm.

participating part-time, which is positive. This was recognised in the 2018 EC Report on Croatia, although it notes that the GMB amounts are insufficient.

The problem of the territorial discrepancy in the social benefit distribution was also highlighted as a problem resulting in higher level of inequality among the citizens. The lack of progress with the social benefit system consolidation aiming at diminishing poverty was also emphasized. The establishment of the National Centre for Benefits, as the focal point for administration and distribution of social benefits, was cancelled. It was the most important measure of the previous National Reform Programme, mentioned in our 2016 Report. The Government of the RC has put emphasis on the 2018 – 2020 Action Plan for the Enhancement of the Social Benefit System, as part of the 2017 National Reform Programme measures. It includes measures for enhancing the social benefit information system, harmonising the definitions of social benefits distributed by the local government units, with use of the ESSPROS nomenclature and establishing regular reporting procedures from the local to the central level.

Unemployed who are capable to work account for 50% of GMB beneficiaries. Free of charge training, retraining, opportunity for occasional work and more efficient work activation and employment measures should be ensured. Although the public works scheme was supposed to be one of the more significant work activation measures, it has not produced significant results, especially due to implementation discrepancies.

The Strategy to Combat Poverty and Social Exclusion in the RC and the accompanying 2014-2015 Strategy Implementation Programme, as well as other strategic documents and legislative amendments, have not contributed significantly to diminishing poverty and social exclusion. Among other reasons, this was caused by the low expenditure for social welfare, the sluggish pace of realizing reforms and of social security system modernization. Meanwhile, the progress report on the implementation of the Strategy Programme for 2016 was not submitted to the Government of the RC, and the new Programme for 2017-2020 was not yet adopted.

The Monitoring of the Strategy implementation entails eight important strategic areas, including access to social benefits and services and the balanced regional development. According to the latest available Report on the 2015 Programme implementation, adopted by the Government of the RC in January 2017, the majority of measures planned for 2015 have been fully realized, with an exception of the two related to ensuring equal access to social benefits and services to citizens living in deprived, marginalized areas, and promoting social inclusion in the rural areas. The measures regarding the enhancement of the social transfer system, were only partially implemented, by amending regulations, integrating social transfers and services on the national level, for homeless shelters and dormitories.

The Strategy to Combat Poverty and Social Exclusion in the RC and the accompanying 2014-2015 Strategy Implementation Programme, as well as other strategic documents and legislative amendments, have not contributed significantly to diminishing poverty and social exclusion, Among other reasons, this was caused by the low expenditure for social welfare, the sluggish pace of realizing reforms and social security system modernization.

The topic of citizens living at risk of absolute or extreme poverty is being placed higher on the agenda. The EU has set the extreme poverty line at

40% of median available equivalent income, which amounts to HRK 1500. According to Eurostat data, in 2016, 8.5% of citizens lived below this threshold. Since only less than a third of them were GMB beneficiaries, it seems that the benefits and transfers should be more precisely streamlined towards the most at-risk groups, who lack basic means for survival. The citizens who live in such conditions should be, in addition to the social benefits, provided with regular meals in soup kitchens and access to social supermarkets. Although large cities and county centres are legally bound to finance soup kitchens, only a few fulfil this obligation. Some finance the City Red Cross organisations, which then provide free meals to people who are identified by the SWCs or city administration. They serve both the homeless and persons who were victims of crisis situations due to natural or other disasters. Caritas is co-financed in a far lesser extent. Their soup kitchens distribute more than 3000 meals per day, to all who come in. Unfortunately, the differing criteria for meal provision do not guarantee equal access to this type of assistance.

Apart from soup kitchens, social supermarkets should be regulated and introduced as an additional social service. Eligibility criteria should be defined, and a reliable source of financing ensured.

Since the number of persons living in severe material deprivation and at-risk-of extreme poverty in all areas of the RC is substantial, the possibility for obligating local government to finance soup kitchens or find an alternative way to provide warm meals to the most socially deprived citizens, should be considered. This would reduce inequalities and allow equal access to these services.

In addition to soup kitchens, 34 social supermarkets operate in the RC, registered as humanitarian organisations and food donation intermediaries. Unfortunately, their capacities and equipment vary, especially in smaller communities where they cannot meet the requirements for storage or distribution of all types of donations. Purchasing refrigerators, freezers and delivery vehicles would upgrade their work significantly. In such communities, the citizens cannot use their services in the same volume and quality as in the larger cities. Almost all social supermarkets report of the need for more donations, caused by the continuously rising number of beneficiaries. Also, the criteria for registering beneficiaries and assistance provision vary. Mapping should be carried out and the legal framework should be established for the provision of institutional support and continuous access to grants.

Compared to 2016, no major changes were recorded in the food donation system and, irrespective of the activities and suggestions provided by the stakeholders, the system did not manage to fully come alive. Out of 1200 humanitarian associations in the RC only 65 were registered as intermediaries in food donations. However, the readiness of the Ministry of Agriculture to amend the regulations, by extending the scope of final beneficiaries and to change the deadlines for food donations, as well as to reduce red tape both for donors and intermediaries, is encouraging, especially the intention to introduce a virtual central intermediary body that will connect donors, intermediaries and beneficiaries.

In addition, a donor data base should be established, to keep data on offered food, expiry dates, transportation conditions, and beneficiary information. The food labelled as "to be used by" should be donated 48 hours before the labelled date. Amendments of the Ordinance on conditions, criteria and modalities of food and feed donations are also due. Our 2016 Report addressed it with more detail.

The future Strategy to Combat Poverty and Social Exclusion Implementation Programme should determine the activities to upgrade the food donation system, and ensure realisation of operational and storage requirements for social supermarkets, as well as continuous financial assistance.

The Ombudswoman's Office received the highest number of citizens' complaints concerning the low amounts of GMB, excessive duration of procedures for getting expert opinions necessary for the approval of social benefits' requests, rejection of one-off benefit requests according to the law, and uneven treatment by SWCs, which was confirmed by the MDFYSP data. The citizens are increasingly complaining about SWCs rejecting their increased one-off benefits' requests for the purchase of stoves or refrigerators or house repairs, although they live in conditions below human dignity. The reasoning they provide for the rejection is that the local government is competent for dealing with housing. Recently, in such situations, media humanitarian campaigns were being organised, although the persons living in severe social deprivation and poor housing conditions should be assisted by the social welfare system on the national and local level. Irrespective of our recommendation presented in the 2016 Report, to increase the amount of GMB for household members who are incapable to work, because two persons get a slightly higher amount than a single person, and to extend the scope of eligibility criteria for the approval of one-off benefits, this will only be considered during the adoption of the new SWA.

A large number of local self-government units omits to fulfil their legal obligation to finance the housing costs benefit, bringing their citizens deeper into poverty.

Same as the previous years, irrespective of our recommendations, the problem with the distribution of housing costs benefits remains significant. Although all GMB beneficiaries should have access to these benefits, the local government units, which are legally bound to earmark funds for the distribution of this benefit, simply do not fulfil their obligation. As much as 57% of municipalities and 84% of cities do not earmark funds at all or provide a lower amount than legally defined, or provide it in form of the one-off benefit, instead of a monthly allowance. According to the MDFYSP data for 2016, 28,793 housing costs benefit beneficiaries were recorded (singles and households), while the number of GMB beneficiaries reached 48,701. According to the SWA this benefit should be available to all GMB beneficiaries, which means that it was significantly under-distributed. Total costs for GMB in 2016 reached HRK 610,956,240.48, and for the housing costs benefit HRK 81,003,297.00, meaning that its share in GMB costs accounted for modest 13%. This, also, revealed the fiscal problems of some LGUs and their lack of capacity to ensure financing for the housing costs benefits, which made them incapable to meet their legal obligations, which created inequality between beneficiaries residing in different LGUs. In addition, the LGUs were more focused on benefits or subsidies which they were not obligated to distribute according to the SWA. Assistance for heating is approved only to GMB beneficiaries who use wood for heating, and since it is financed with decentralized funds, the payments were regular. Since this was available only to the beneficiaries who use wood for heating, it should be extended to others who use different heating systems, especially because there are no guarantees for coverage of heating costs through the housing costs benefit. All mentioned, additionally impairs the position of the GMB beneficiaries who pay for their housing costs irregularly and whose debt is increasing, which leads to electricity and water supply cuts. Such situations add to their existing energy poverty, a topic covered in a separate chapter.

The Homeless

In Croatia, 16 shelters/dormitories and one centre for daily activities, are located in Dubrovnik, Karlovac, Kaštela, Osijek, Pula, Rijeka, Split, Šibenik, Varaždin, Zadar, Zagreb and Sesvetski Kraljevec, and have the capacity for 470 beneficiaries. Compared to 2016, one additional shelter was available. The founders were cities, CSOs, humanitarian and religious organisations. However, despite the legal obligation imposed on the large cities and county centres to establish shelters/dormitories for the homeless, many do not fulfil it. Consequentially, CSOs, humanitarian and religious organisations continue to be significant stakeholders in providing care for the homeless and extend this care by providing food in soup kitchens. Therefore, the MDFYSP collaborated with counties, larger cities, municipalities and social care institutions established by the RC, and created the Annual Plan for Winter Care of the Homeless. Coordinators for the homeless have been appointed in these cities, however some shelters stated they do not even know who the coordinators were, evidently, their activities should be strengthened.

Although a legal obligation was imposed on the large cities and County centres to establish shelters/dormitories for the homeless, many do not fulfil it. Consequentially, the CSOs, humanitarian and religious organisations remained the most significant stakeholders in providing care for the homeless and extended this care to providing food in soup kitchens.

According to the data provided by SWCs, as of 31 December 2016, a total of 180 homeless were staying in 102 shelters and 78 dormitories, based on written referrals or letters. This, however, was not a procedure legally defined by the SWA, because no decisions were issued on the recognition of the right to temporary housing care for any of them. As a consequence, they are deprived of a possibility to file an appeal or to initiate the procedure of residential care referral verification. This created inequality between the beneficiaries to whom the decisions on temporary housing were issued, especially because the ones who had no decisions had no right to receive the personal needs benefit (so called allowance), but instead, the SWCs only occasionally approved one-off benefits to them.

Furthermore, the shelters and dormitories hosted 465 homeless in 2016, 388 men and 77 women. Apart from Zagreb, the largest numbers were recorded in Split, followed by Rijeka, Pula, Karlovac, Osijek, Varaždin, Sisak, Zadar, Šibenik and Vinkovci. Six homeless persons were foreign citizens. The homelessness was mostly caused by unresolved housing situation after leaving social care institutions, penal and similar institutions. Unresolved ownership disputes and evictions were also recorded as some of the reasons. The age of the homeless ranged from 15-89 years, and approx. 50% belonged to the group aged between 50-64. By the type of service, 166 were placed in shelters, 123 in dormitories and 65 were beneficiaries of half-day stay; 214 homeless were GMB beneficiaries, 142 received one-off benefits, and 260 were beneficiaries of soup kitchens, while only five were employed and 22 were retired. Out of all the unemployed homeless persons, 162 were unable to work, and 276 were able to. Better programmes and specific measures should, therefore, be designed, to allow them easier access to the labour marked, especially for young homeless persons who recently left alternative forms of care.

According to the Strategy to Combat Poverty and Social Exclusion Implementation Programme, the MDFYSP financed social inclusion projects for the homeless. Under the scope of the Fund of

European Assistance for the Disadvantaged (FEAD) in 2017, humanitarian organisations distributed food and/or basic necessities for 400 "hidden homeless", who were not covered by the social welfare system.

According to data provided by the providers of accommodation for the homeless, many homeless persons continue to use the temporary housing for more than a year, usually because SWCs fail to provide them with an adequate permanent housing care solution. Either they refuse the offered housing because it is located far from their place of residence, or they do not want to go to foster care in rural areas. One shelter was taking care of a homeless person with chronic obstructive lung disease for six months, he was using an oxygen tank 9-12 hours a day, sharing the room with other seven beneficiaries, waiting to be placed to foster care.

Unless the situation includes the older and infirm persons, caring for the homeless should not be based on institutional care, instead, efforts should be put into their social inclusion into the local community. More attention should be paid to preventing homelessness, especially through social housing or affordable rent of publicly owned flats (more details on this topic are presented in the chapter on housing). Young homeless should be offered to live in joint housing units with additional support for social integration, especially in the labour market.

Uneven SWCs' practice of reporting their address as the residence of the homeless still remains, thus creating barriers for the homeless to realise their social rights, especially to healthcare. The problems increase if the homeless never had registered residence on the territory of a certain SWC or are stateless or without personal identification documents. We received a complaint considering two SWCs which shifted authority between them, regarding a residence registration of a homeless person, although he decided to register it in the area where he recently resided the most, instead of in the place where it was last recorded. The SWCs referred him back and forth which led to him being charged for wandering because he got caught sleeping in public places. But in fact, he had no choice, because neither of the two SWCs had placed or referred him to proper shelter care. This is unacceptable, and the new SWA should provide a clear and precise list of the rights of the homeless, especially during the period before acquiring personal ID and healthcare card.

The homeless care should not be based on institutional care, instead, efforts should be put into their social inclusion into the local community. More attention should be paid to preventing homelessness, especially through social housing or affordable rent of publicly owned flats. Young homeless should be offered to live in joint housing units with additional support for social integration, especially in the labour market.

The service providers of accommodation stated that the health care institutions have been sending them invoices for hospital care of the homeless who were registered at their address, some exceeding HRK 18,000. Since the homeless are predominantly Croatian citizens with no income, the status of a homeless person should guarantee free-of-charge health care, regardless of them having no permanent residence registered and for the entire period of the duration of their homeless status. At the moment, this is provided only for a limited period of time, lasting either two or six months. The dying homeless persons should urgently be provided with adequate palliative care, because shelters/dormitories have inadequate conditions for it.

In accordance with our recommendations, in the upcoming period, the MDFYSP plans to draft the National Strategy for Homelessness and the Protocol for procedures with the homeless. Another encouraging fact is that the Ministry expressed readiness to introduce the definition of the homeless person in the new SWA draft, according to the ETHOS typology.

Nevertheless, the recommendation to grant the homeless who are placed in shelters the possibility to use GMB, equally to the ones who reside in dormitories, was not accepted, due to the lack of funds earmarked in the state budget, although there were only 78 of them. This increased the social exclusion of the homeless residing in shelters with no equal access to social welfare rights.

Young in alternative forms of care

Young adults, older than 18 and younger than 21, leaving the child care institutions and joint housing units established within the child care institutions are especially vulnerable. This is especially true for the ones who are about to leave the institution/joint housing, and have no housing ensured, or a possibility to return to their own families. They need the assistance of the society to equalise their starting point with their peers who do have such support. The regulations guarantee them rights to social services of joint housing with occasional support, as well as counselling and assistance after leaving institutions.

For all minors without family care, SWC, children's' homes and foster carers should create individual empowerment plans and raise their capacities for successful independent living after exiting care. The plans include areas of education, employment, housing care, accommodation to independent life in the community. To make their inclusion in the community truly possible, consistent execution of their individual plans should be ensured, and an efficient control system should be established to prevent their homelessness. Although larger shelters have organized housing units for young homeless persons, it would be more appropriate to provide them with an option to rent a public flat under favourable conditions or to provide them access to the so-called crisis accommodation in case of unemployment or other circumstances which put them at-risk of homelessness. This topic will be covered more broadly in the next chapter.

The young should be provided with adequate housing and mentorship assistance or of a professional counsellor who would assist them before and after leaving alternative forms of care. To truly allow their social inclusion and prevent homelessness, consistent execution of their individual plans should be ensured and an efficient control system should be established.

Given the volatility of the labour market, the young coming from alternative forms of care should be allowed to stay in the joint housing units managed by the children's home until they are fully prepared for independency. Mentorship or professional counsellors should also be provided in the period before and after leaving alternative forms of care, which we elaborated in our 2016 Report.

Second-instance procedure and administrative supervision

In 2017, the duration of second-instance procedures was not shortened, due to the lack of staff in the Appellate Service of the MDFYSP and because of a large number of newly received appeals and backlogs. The number of administrative disputes was on the rise, partially because of the administrative silence.

The situation remains similar for years now, but it is unacceptable that the duration of the second-instance procedure violates the rights of parties to delivery of decisions within the legally set timeframe. This only adds to their dissatisfaction, because in most cases, these citizens belong to the most vulnerable groups who need quick solution to their problems and assistance. Therefore, the Appellate Service should be fully staffed and equipped with a plan for handling backlogs and keeping the current workload in legal timeframes.

In 2017, 29 administrative supervision procedures were carried out in SWCs (14 regular and 15 ad hoc), five less than in 2016. Most common irregularities were the non-compliance of the programmes and general acts with the SWA, and the faulty execution of the administrative procedure. The operating procedures of the SWCs were rather uneven, with differences in procedure being recorded even within a single SWC. This is often caused by poor organisation, so the administrative supervision reports call for better, client-centred workflow organisation.

It is unacceptable to breach the right of parties for receipt of decisions in the legally defined timeframe by extended second-instance procedures, these citizens usually belong to the most vulnerable groups, expecting speedy problem resolution and assistance.

Simultaneously, 20 administrative supervisions were carried out of the legality of LGU procedures for recognition of housing costs benefits, which was 16 less than in 2016. It has been determined that some LGUs still did not adopt the Decision on Social Care or that it was not aligned with the SWA. The LGUs recognise the right to this benefit but provide it in volume or amount bellow the legally defined or as a one-off benefit. The decisions which were not aligned with the SWA were not abolished by the MDFYSP, instead, the heads of the city departments for social care were informed of the irregularities. The supervision reports contained the corrective measures to be applied. Such controls should be carried out more frequently, because a lot of illegalities were found in the LGUs procedures in the area of social welfare, especially with respect to the housing costs benefits.

RECOMMENDATIONS:

96. To the Ministry of Demography, Family, Youth and Social Policy, as the competent authority for drafting regulations in the area of social welfare, when drafting the provisions of the new SWA should:
    - Increase the amount of GMB, especially for household members fully incapable for work;
    - Extend eligibility criteria for recognition of one-off and increased one-off benefits ;
    - Introduce the definition of the homeless according to the ETHOS typology, and extend the GMB eligibility to homeless in shelters;
    - Include social supermarkets among social services and regulate their financing;

- Allow young people, older than 21, who are leaving alternative forms of care, the access to organised housing, adequate housing schemes, mentorship or professional counselling assistance before and after leaving alternative forms of care;

97. To the Ministry of Demography, Family, Youth and Social Policy and the Ministry of Health, to immediately initiate the procedures of granting residence to the homeless, thus enabling them access to social rights and healthcare insurance;
98. To the Ministry of Agriculture, in collaboration with the Ministry of Demography, Family, Youth and Social Policy, to amend the Ordinance on conditions and modalities of donating food and feed, by which the food donations would be encouraged, and to establish a unique data base of donors and a data base of beneficiaries;
99. To the Ministry of Demography, Family, Youth and Social Policy, to create prerequisites for solving second-instance procedures within legal time limits and to carry out more administrative controls;

3.11. HOUSING

,,...I am a mother of six.. for 32 years I have been living in an illegally occupied apartment with my family... the flat was owned by the city and has been returned to the original owner.. two daughters are receiving guaranteed minimum benefit.. my husband is disabled.. my family and I are being left without our only apartment and place of residence.. I have contacted all the institutions in the city and the Parliament. I have applied for social housing in 2012, my daughter asked for an appointment with the mayor 15 months ago, however I have not yet been invited for a meeting..

The right to adequate housing is mentioned in numerous documents, the General Declaration on Human Rights, International Covenant on Economic, Social and Cultural Rights, the 2030 UN Sustainable Development Programme. The revised European Social Charter speaks of the right to an apartment and measures promoting adequate housing standards, prevention or decrease of homelessness and affordable housing costs provision for persons of low income. EU supported development in this area and emphasized the need for allowing access to social housing and housing assistance measures.

In the RC, the matters of housing and housing care for specific groups of citizens, such as the homeless or former tenancy right holders (more on this topic can be found in chapters on social welfare and reconstruction and housing care) are not regulated by a single act. Instead, these matters are regulated by special laws, sometimes dispersed among several acts, which makes it difficult to approach the housing issue comprehensively. The members of the Roma national minority and persons granted international protection are especially vulnerable and at-risk of discrimination in this area (more on this topic can be found in the chapter on racial, ethnic and nationality-based

discrimination). There is a lack of expert analysis that would allow definition and adoption of a comprehensive housing strategy, and additional problems are caused by the insufficient number of housing units for various purposes and unresolved property rights. The area of public housing, including social housing, should be systematically and normatively regulated, while international and European housing policy documents should be taken into account during this process, especially the European Social Charter 2006, the 2015 UN Geneva Convention on Sustainable Housing, the UN HABITAT and credit programmes of the Development Bank VE-CEB and EU Funds, which we covered in our 2016 Report as well.

The number of complaints to the Ombudswoman's Office regarding housing issues in 2017 is significant: 14 on social housing, 12 on war veteran housing, 53 on reconstruction and housing care, 44 referred to the problems with renting apartments, and five to discrimination in the area of housing.

According to the 2011 CBS data, 89.38% of households in the RC are privately owned/co-owned apartments, 2.99% pay rent, 4.22% are related to the owner or the tenants, 1.91% of tenants pay protected rent, 0,99% rent parts of an apartment and 0.65% use the apartment on other grounds. Real estate ownership continues to be perceived both as the most secure way to solve one's housing situation and as an investment. Long lasting economic crisis and high real estate prices created a gap between the needs and possibilities to meet them, so the citizens were increasingly seeking for alternatives at the real estate market, which included purchase of apartments within the Subsidized Residential Construction Programme (SRC) which were 41.3% cheaper, according to CBS data. According to MCPP data, by end of 2017, a total of 7106 SRC apartments were constructed on the territory of the RC. Sites in Fažana, Metković, Punat and Šibenik are still under construction. The citizens filed no complaints regarding the SRC scheme, but the media reported on wrongdoing and manipulations with ranking lists of purchase rights' holders and poor building standards.

In addition, people younger than 45 had a possibility to apply to credit institutions for subsidized housing loans, for purchasing apartments or building houses; results of this measure are still being analysed.

The RC, traditionally, does not have a developed and regulated residential rental market. The commercial rental market operates largely in the shady zone, tenants remain unprotected and the ones without contracts are more at risk. From the complaints received, it is obvious that smaller LGUs have problems with public, and especially social housing which remains unresolved due to a lack of flats. Frequently, in such situations, legal acts are being passed of dubious legal power or the citizens are accommodated in inappropriate spaces with unresolved ownership issues.

In tourist centres, during the peak season, the situation is particularly difficult and there is a lack of residential property fit for living and/or the prices are too high and unaffordable. For example, seasonal workers face problems to find accommodation, the Union of Workers in Tourism and Services of Croatia provided information that up to twenty workers lived in one room in the so-called guaranteed

More and more different categories of citizens, such as the young with temporary working contracts, police and other state employees, could, at least temporarily, solve their housing problem by renting. Therefore, it is necessary to promote and strengthen the rental system of public housing, including the SRC.

accommodation provided by the employers, and it was also reported that if a worker would complain, they would immediately be fired.

More and more different categories of citizens, such as the young with temporary working contracts, police and other state employees, could, at least temporarily, solve their housing problem by renting. Therefore, it is necessary to promote and strengthen the rental system of public housing, including the SRC, through which, according to available data, 856 lease agreements were signed in Zagreb, Osijek, Zadar, Pula, Nerežišće, Bjelovar and Ogulin. In addition, most of the cities, according to the Apartment Lease Act, had passed decisions on renting apartments in their ownership, and laid down requirements and benchmarks for applicants. However, the number of available housing units was usually lower than the number of applicants and citizens in need. Thus, we have received complaints about creation of ranking lists, nepotism and favourable treatment.

Although the state should manage its real estate rationally and efficiently and put it in function, it is not frequently so, in case of residential property. Citizens approached us who had been occupying state-owned apartments illegally for decades, which shed a light on the long-lasting period in which the state residential property was managed inadequately. According to data for 2017, the Ministry of State Property (MSP) and the State Property Ltd. company managed 6086 apartments, out of which 890 were vacant. The MSP managed 2070, and the State Property Ltd. managed 4016, out of which only 2668 were being used pursuant to valid legal grounds. According to the State Property Ltd. data, the RC has not concluded any apartment lease contracts, either with occupants or vacant, since 2010, irrespective of full ownership/co-ownership. In addition, no continuous rent collection system existed, or alignment with the increased mandatory maintenance fee. Consequently, due to unpaid bills, the energy provision was cut off to the illegal occupants, however, they still expected their status to be legalized, since they were not evicted. In the City of Zagreb, since 2012, the status of such occupants is being legalized and in 2016, 79 applications were resolved positively.

Citizens also mentioned the problem of retroactive rent increase, for apartments they had been using for years and been granted use on various grounds. In the meantime, these apartments, based on lawsuits or property registration of the former social ownership, became ownership of the RC, but the users received no new contracts, instead, they received bills for the occupancy fee, covering the period of several previous years. Their only option was to initiate civil disputes, which are long-lasting and expensive, and since many could not afford to pay these substantial bills, because of small pensions or social benefits, bank account enforcements were initiated. Additional problem was that the payment of the occupancy fee was one of the requirements for granting a possibility to purchase the apartment, because of that, many citizens gave up on this option.

The Strategy to Combat Poverty and Social Exclusion and the accompanying 2014-2016 Implementing Programme, showed no significant progress. The measure which was supposed to put to use residential property owned by the RC for housing care of vulnerable groups was not implemented by the end of 2016, and data were not consolidated for 2017.

Despite the recommendations provided by the Ombudswoman in several previous reports, the Strategy on Social Housing has not been adopted, and housing for the most vulnerable social groups was not regulated by the law. Namely, the SWA obligates large cities and county centres, according

to their financial capacities, to ensure social housing for GMB beneficiaries, but not all of them fulfil this obligation, mostly because they lack available housing units or have not earmarked funding for this purpose. Some of the cities have introduced in their general legal acts that regulate social housing, the requirement for a single person or a household to be a GMB beneficiary, but it does not by itself guarantee them the access to social housing. This legal obligation should be extended to all LGUs, which would guarantee equal access to housing on the entire territory of the RC.

The Strategy to Combat Poverty and Social Exclusion and the accompanying 2014-2016 Implementing Programme showed no significant progress. The measure which was supposed to put to use residential property owned by the RC for housing care of vulnerable groups was not implemented by the end of 2016, according to the plan, and data were not consolidated for 2017. As an exception, in December 2017, the Government of the RC passed the Decision on granting free use of seven apartments to the City of Osijek for the purpose of housing care for citizens of lower income and impaired social status. The City of Osijek had required use of these apartments, by calling upon the recommendation of the Ombudswoman dating from 2013, to put to use part of the housing stock owned by the RC for housing care of socially deprived persons, which the Government had accepted and ordered the competent authorities to proceed with realisation, which we have covered by our 2013 and 2014 reports. The social housing or favourable lease of public housing should also solve the problem of young persons leaving alternative forms of care who often end up on the streets, as well as the problem with the homeless who have been residing in shelters for years. They can also serve as a tool for homelessness prevention, which we discussed in the chapter on social welfare.

Regarding the protected lease agreements, despite the recommendation from our 2016 Report, the procedure of executing the Decision of the ECHR in the case Statileo vs Croatia (2014) was not finalized. The judgment pointed to the systemic errors and the necessity to amend the Apartment Lease Act because it excessively burdens the owners with the social and financial costs of housing care for the protected tenants by setting the protected rent inappropriately low, restrictive cancellation conditions and non-existence of any time limitation for the protected lease. The public consultation held on the occasion of amending the Apartment Lease Act was concluded in June 2016, a large number of citizens and associations participated, but none of their suggestions were taken into account, including the Ombudswoman's on regulating social housing. Because of the slow-moving intersectoral coordination, the procedure of its adoption was delayed once again, thus, the RC continued risking additional lawsuits, and occasional media coverage on possible legal solutions raise doubt among the public that it was tailored to satisfy private and particular interests.

The procedure of executing the Decision of the ECHR in the case Statileo vs Croatia (2014) was not finalized. The judgment pointed to the systemic errors and the necessity to amend the Apartment Lease Act because this Act excessively burdens the owners with the social and financial costs of housing care for protected tenants.

Also, discrepancies existed in the housing care of war veterans, according to the Act on the Homeland War Veterans' Rights and the Members of Their Families (ARHWV) and the Decree on Housing Care of the Family Members of the Deceased, Captured or Missing Croatian Homeland War Soldiers, Croatian Military Personnel Disabled in the Homeland war, and the Volunteers of the Homeland War. The discrepancies existed with respect to the ratio of demand and availability of the apartments. In 2017, the MVA granted 119 apartments, 389 housing loans and financial subsidies

exceeding 47 million HRK, and took upon recovery of 40 apartments from other state bodies. However, the needs continue to exceed the available capacities, since 11,536 housing care applications remain unresolved.

Some LGUs, when granting housing loans to war veterans for building family houses in their place of residence, do not provide discounts nor relieve them of payment of fees for construction sites and utility connections, and a large number do not even leave available land in their spatial plans for this purpose, mainly due to unresolved ownership of land parcels owned by the state, that are located on their territory.

The large number of regulations on relations between the citizens and the state, and the management of state property, aggravate the orientation, cause legal uncertainty and require expertise, making these procedures expensive for the citizens. They usually entail long-lasting complex legal actions, which are the most frequent cause of citizens' complaints and are particularly burdening for the elderly and persons of impaired health. They complain about the repeated requests for delivery of documents because the previously delivered ones' validity expired, while they remain living in state-owned apartments the whole time, coping with the uncertainty of future prospects for getting a lease contract renewal or an offer to purchase the apartment they reside in, or possible eviction.

We received complaints about unresolved requests for apartment purchase according to the 2013 Decision on sales of apartments owned by the RC. The MSP received 929 requests, out of which 784 were unresolved.

...last year I filed a request to sell a property owned by the state. I stated in my request that it was the house I was born in, previously owned by my brother who had sold it to the Agency for real estate transactions... Today, I am still waiting for the offered purchase price. I have received a letter informing me to submit documentation, which I cannot acquire without high costs, since I live in Baranja. Also, nobody took into account the fact that the competent land registry, as well as the cadastre, is not open every day, nor do they always open on their working days either..."

The Ombudswoman received complaints from citizens who share asset ownership with the RC, because the dissolution procedures were not carried out due to their complexity and high costs. In addition, no progress was made in communicating with citizens whose requests were being processed by the MSP, because they could not access the information about the status of their request, nor about the possibility to file a complaint against the actions of civil servants to the ethics commissioner. Unfortunately, the MSP did not respond to the Ombudswoman's queries, sometimes, not even after filing several requests for speeding up procedure, which we have previously reported as well.

The Strategic documents setting the guidelines and objectives for the management and use of state property have not yet been adopted, such as the 2017 Plan for managing assets owned by the RC, although the public consultation process finished in November 2016. It is questionable if the Croatian Parliament will be informed, and based on which parameters, about the state property management.

In addition, the 2013-2017 Strategy for the Management and Use of State Property, as the most important strategic document, is not valid, and the new one has not been adopted or open to public consultation.

RECOMMENDATIONS:

96. To the Croatian Parliament, to pass the Apartment Lease Act;
97. To the Ministry of Construction and Physical Planning, Agency for Real Estate Transaction and Brokerage and the LGUs, to strengthen the public and social residential rental schemes and construction of SRC apartments for lease, especially in top tourist destinations;
98. To the Ministry of State Property, to process cases in reasonable time frame and strengthen capacities for communicating with the citizens and to publish contact information of their ethics commissioner on their website;
99. To the Ministry of State Property and State Property Ltd., to create solutions to legalise the status of long-term illegal occupants of apartments who have been regularly covering the costs of the occupancy fee;
100. To the Ministry of State Property, to intensify the transfer of management rights of vacant apartments and those unfit for living to the LGUs, for the purpose of their recovery or granting for use to the persons fitting the legal eligibility criteria;
101. To the Ministry of State Property, the Ministry of Construction and Physical Planning, the Ministry of Demography, Family, Youth and Social Policy, and the Central State Office for Reconstruction and Housing Care, to proceed with the drafting of the Strategy of Social Housing which will include measures for all socially deprived vulnerable groups;

3.12. ENERGY POVERTY

The surging prices of energy, low income and energy inefficient buildings contributed to the recognition of energy poverty as one of the key contemporary problems. The emerging increased commitment to creating protective measures for the most vulnerable groups, has a goal to protect them from the negative consequences of inadequate living conditions to their physical and mental health. Usually, these conditions occur because of the non-payment of energy costs caused by poverty or because of the lack of access to modern forms of energy.

The field visits, especially in the rural areas, allowed us to witness what living in energy poverty looks like and how vital the access to energy is for ensuring healthy and socio-culturally acceptable living conditions. Increasingly, we are gaining insight into the matter, also, through complaints. Unfortunately, according to the data provided by the Croatian Public Health Institute (CPHI), the impact of housing quality on citizens' health is not being monitored. We can paint one part of the energy poverty picture relying on the data according to which one tenth of the population lives in the households which cannot afford adequate heating during the coldest months, one fourth are late on their utility bills' payments, and more than half live in the households in which total housing costs present a significant financial burden. The households which cannot connect to the power grid are in

a particularly difficult position, usually, this is caused by low, or no cost-effectiveness of the investments in infrastructure. Solutions should be found in such cases and the obligation to ensure access to energy for all, should be fulfilled by all the competent authorities.

"I am 59 years old and retired. Eight years ago, my husband died, and things went wrong. My family pension is HRK 1988. My bank accounts have been frozen for more than 6 years. Since January 2014, my gas was cut off, and this is the fourth winter that I have been freezing. I sleep and live in the cold. I have no warm water and I wash from a plastic bowl, I wrote to the gas company and asked to pay my debt in instalments, but they refused. I receive HRK 1400, which I use to pay my loans and manage to keep electricity and water. I have two daughters who help me not to starve. Last winter, everything broke from the cold, I really do not know how I managed to survive. I dress warmly and when it gets cold I endure, I fear the winter. I know that all of us living on the edge of existence seem equally miserable, but we have stepped over that edge a long time ago, we sank much deeper. Because of all that I ended up on medication. This all affected my nerves. One can endure a lot, but hunger and cold are too much. "

The RC is bound to adopt and implement public policies to ensure adequate and worthy living standards for its citizens, which includes protection from energy poverty. Apart from the Constitution, this obligation is provided by the International Covenant on Economic, Social and Cultural Rights. The right to protection from poverty and social exclusion, as well as the right to housing, which entails the obligation to carry out measures for making the housing costs affordable for persons of low income are also recognized by the Revised European Social Charter, whose ratification we are advocating for.

The European Pillar of Social Rights was adopted in 2017, it notes that everyone has a right of access to quality basic services, including energy, and emphasizes that the ones who need the energy should be allowed access to it. The goals of the UN 2030 Sustainable Development Programme include eradicating poverty and affordable, reliable, sustainable and modern energy for all, especially for the vulnerable members of the society. To achieve these goals, it is crucial to draft the National Plan and to promote collaboration between the private and the civic sector, but such a plan was not yet adopted in the RC.

Thus, access to energy is not merely technical, technological or economical, but also, a matter of human rights' protection. This means that each energy policy, and measures linked to it, should be participatory, transparent and thoroughly assessed from the aspect of their effect on the most vulnerable, who should not be left out. The documents mentioned, indicate that it is legitimate to expect systemic and effective public policies for energy poverty eradication and that all state bodies have a duty to act, use all available resources and funds to fulfil this obligation and guarantee access to energy to all its citizens, without discrimination and regardless of the criterion of economic cost effectiveness.

Access to energy is not merely technical, technological or economical, but also, a matter of human rights' protection. All energy policies, and measures linked to it, should be participatory, transparent and thoroughly assessed from the aspect of their effect on the most vulnerable, who should not be left out.

To put this problem on the agenda and encourage more intensive activities and cooperation, the Ombudswoman's Office organised a conference "Public policies against energy poverty" in 2017. Representatives of a wide circle of competent authorities, experts and CSOs discussed, among other things, the challenges of defining and measuring energy poverty, data collection, efficiency of social transfers, limitations and capacity discrepancies between local self-government units (LGUs), as well as, about the activities necessary to overcome these challenges. The primary action should focus on investments into energy efficiency of the vulnerable households, and provision of auxiliary aid measures for coverage of household energy costs, which should be provided as a secondary measure.

Positive steps were observed in the activities towards the adoption of two important documents which should define the public policies for combating energy poverty in the RC, and in the implementation of energy efficiency measures for energy vulnerable households, which was in line with the Ombudswoman's recommendations. The MEE created the draft of the Fourth National Energy Efficiency Action Plan, while the MCPP worked on adopting amendments to the 2014-2020 Programme of Energy Refurbishment of Family Houses, which also rest on relevant EU bodies' decisions. It was announced that these documents should be used to define energy poverty on the national level, and to establish the system for monitoring socio-demographic and energy indicators. The positive occurrence is the announcement of possible broadening of the criteria for gaining the vulnerable energy consumer status, as now it includes only extremely poor citizens. All the activities were carried out in cooperation with and by relying on the expertise and experience of CSOs and professional organisations. Also, the amount of funding earmarked for this purpose is encouraging.

Unfortunately, these documents were not adopted by the end of 2017, which will delay implementation and lessen the effects in the foreseen period. The adoption of the Implementation Programme of the Strategy to Combat Poverty and Social Exclusion in the RC (2004-2020), which was expected to ensure implementation of the measures for combating energy poverty, was also delayed. The recommendation provided by the Ombudswoman, to pass a Decree on protected energy consumers, was not implemented and neither was the Ordinance on the system of obligations regarding energy saving according to the Energy Efficiency Act, providing the obligations to realize part of the savings by implementing measures in energy deprived households. The single remaining available systemic measure for vulnerable consumers is the vulnerable energy consumer benefit (VECB), a right linked to the social welfare system, based on which a small part of users receives subsidies for the costs of electric energy. This only mitigates part of the negative impact of energy poverty without effecting its causes and improving living conditions.

The cases when citizens face energy supply cuts due to unpaid bills, are especially problematic, because the debts, before the cut-off, accumulate to amounts which they cannot pay and get connected again. For example, a lot of citizens whose bank accounts have been burdened by enforcement, the retired persons, the working poor, are only some of the vulnerable groups which need assistance and remain unrecognised by the system.

The funds are raised by collecting solidarity fees, which can sometimes push the citizens who pay for it below the energy poverty line. The assistance for covering energy costs is realised through the social welfare system which distributes the housing costs and heating costs (only for wood) benefits, and

occasionally the one-off benefits. However, these benefits have a very low coverage rate, which is elaborated in the chapter on social welfare.

In 2017, there were 66,865 VECB beneficiaries. If we use the share of persons who cannot maintain adequate warmth in their homes as an indicator for energy poverty, the number of people above the poverty line exceeds the number of people below it[8], so this right should be recognized to a wider range of beneficiaries. The citizens' complaints confirm this, showing they live in poor living conditions and face a dilemma whether to pay the heating bill or eat a proper meal, and they are either not eligible for VECB, or it does not make a significant difference in the improvement of their living conditions.

The cases when citizens face energy supply cuts due to unpaid bills, are especially problematic, because the debts, before the cut off, accumulate to amounts which they cannot pay and get connected again. For example, a lot of citizens whose bank accounts have been burdened by enforcement, the retired persons, the working poor, are only some of the vulnerable groups which need assistance and remain unrecognised by the system.

In addition, citizens are not acquainted enough with the possibility to protect their rights with the service providers, which was recognized by the MCPP, which emphasized the need for enhanced informing of the citizens. They often do not understand how the costs are calculated, or the information about consumption, which makes them incapable of controlling it, which is a main prerequisite for consumption management and use of legal tools for the protection of their rights. The energy suppliers should react to unusual changes in consumption immediately upon the first case of non-payment and actively approach the consumer, determine the causes, inform the consumer of the possibilities for easier payment, energy saving measures and ways of consumption management, choice of a cheaper tariff and if needed, citizens should be instructed how to contact the competent authorities which can provide assistance with the coverage of costs in the early phase. This would help prevent the energy cut offs, due to non-payment. Also, because of especially harsh consequences of energy cuts during winter, for a certain category of vulnerable consumers, a ban on cuts during winter should be considered. At least a minimum of energy should be provided for the basic needs and prevention of illness.

RECOMMENDATIONS:

106. To the Government of the RC, to adopt the Fourth National Energy Efficiency Action Plan for the period 2017-2019;
107. To the Government of the RC, to immediately after the amendment of the Regulation (EU) No. 1303/2013, adopt the amendments to the Program of Energy Refurbishment of Family Houses for the period 2014-2020 and enable priority implementation of energy efficiency measures in the households at-risk-of-energy poverty;
108. To the Ministry of Environment Protection and Energy, the Ministry of Construction and Physical Planning and the Environment Protection and Energy Efficiency Fund, to disseminate information

[8] Analysis by prof. dr. Zorana Šućur, presented at the conference „Public policies against energy poverty", 16 October, 2017.

on measures for preventing energy poverty on time and in a non-discriminatory manner and make it available to citizens who are suffering from or are at-risk-of-energy poverty;

109. To the Ministry of Environment Protection and Energy, to determine socio-demographic and energy indicators for the monitoring of energy poverty and appoint institutions to collect data on both issues;
110. To the Ministry of Environment Protection and Energy, to prepare the amendments broadening the scope of criteria for getting the status of a vulnerable energy consumer in the Decree on gaining status for vulnerable energy consumers;
111. To the Ministry of Environment Protection and Energy, to create the draft of the new Energy Strategy and include the protection of vulnerable energy consumers and measures for preventing energy poverty;
112. To the Ministry of Environment Protection and Energy, to create a draft of the Decree on the protected buyer of electric energy;
113. To the Ministry of Environment Protection and Energy, and pursuant to the Energy Efficiency Act, to adopt the Ordinance on the System of Obligations with Respect to Energy Savings and impose the obligation that part of the savings should be realized through energy efficiency measures implemented in the vulnerable consumers' households;
114. To the Ministry of Demographics, Family, Youth and Social Policy, to enable the distribution of the vulnerable energy consumer benefit for gas and heating energy;
115. To the Croatian Energy Regulatory Agency, to provide in the general conditions of energy supply, which is a measure of final users' protection, the obligation for suppliers to contact the buyer directly upon the first problems with payment of bills and provide clear and simple advice and assistance for bill coverage and optimum energy consumption;
116. To the Croatian Public Health Institute, to collect and analyse data on the effect of living conditions, including the energy and energy sources accessibility, to the health of the population of the RC;

3.13. UTILITIES, PUBLIC WATER SUPPLY AND DRAINAGE

„ The city did not repair the public access road, when it rains it cannot be used, we have no public street lighting, either. All the houses were built legally, with necessary building permits and paid utility connection. "

The media and social networks have created an impression that citizens are becoming increasingly aware of the importance of the utility and water services' functioning. These activities are not guided by commercial rules and must remain operational regardless of financial shortcomings. For some local government units (LGUs), the public water supply (PWS) involved additional challenges, which they have been pointing out to more frequently and vocally. CSOs have warned that transparent and participatory management of the utility companies, which would contribute to the efficiency of the

public property management, decrease costs and consequentially make the privatization of these activities impossible, do not exist in the RC. Their position has been, also, that the companies managed with no citizens' participation are more prone to corruptive behaviour, while the media have regularly reported about irregularities with staff employment in public utility companies, bonus payments, fixed deals, etc.

The reform of the Utility and Water Management System started in 2017. The Utility Act, the Water Act and the Act on Water Management Financing were amended, and pursuant to the Normative Activity Plan, by the end of 2018 the following new regulations are planned for adoption: The Water Services Act, the new Water Act and Act on Water Management Financing. However, the drafts which were published on the e-consultation platform, lacked the elaboration of the objectives, which was contrary to the Act on the Right of Access to Information. This raised questions about the reasons for adopting new regulations, which made the citizens more apprehensive and concerned regarding the possible privatisation and price growth. This should be considered during the upcoming reform actions.

In November 2017, and according to our recommendation from the 2016 Report, the Decree on communal waste management was put in force, based on which the establishment of a quality and economically effective system of waste collection should have been established. LGUs were given three months to pass decisions on public waste collection services and align their operation according to the Sustainable Waste Management Act, so, it is yet to be seen if this will solve the long-lasting problems with waste disposal. We expect more complaints in this area.

In 2017, citizens complained the most about the calculation and payment collection of the municipality tax, the lack of utility infrastructure, poor maintenance of communal order and unregistered roads, calculation of service prices for public water supply and drainage, as well as about water supply cuts. The complaints revealed that most of the citizens were not acquainted with the possibilities of protection of their public users' rights pursuant to the Act on the Consumer Protection or the General Administrative Procedure Act, and the MCPP came to the same conclusion while responding to the complaints.

The issue of paying municipality taxes when public areas were not fully maintained was also highlighted as a problem. According to the case law of the High Administrative Court, the municipality tax can be charged for the area of the municipality with built access roads, available electric energy and water supply. However, the provision of communal services on the level of each street, was not deemed crucial, the most important criterion was if the public areas, including the non-registered roads and public lighting were maintained in general. The maintenance and building of communal infrastructure was carried out pursuant to the Annual Programme adopted by LGU's representative bodies and according to the identified priorities. Pursuant to the Act on Local and Regional Government, the citizens could propose to the representative body the adoption of certain legal acts or the resolution of certain issues within the scope of the act, including the priorities of maintenance and construction of settlements and streets. If the proposal was backed up by at least 10% of the electorate, the representative body was obligated to discuss it and respond to the

proposal within three months. However, the citizens were not aware of the importance of their participation in the political life or of the possibilities how to become active.

A practice which became increasingly common in LGUs was the collection of the cemetery plot fee based solely on the residence of the user. Since this practice did not breach the Utilities Act and the Act on Cemeteries, no legal prerequisites existed to discontinue this practice. However, since this communal service should be equally available to all, the annual price of the cemetery plot fee and the price for using the cemetery plot should be the same for all users, irrespective of their place of residence.

The City of Đurđevac was a positive example of dealing with this issue: it kept a registry of such buildings and subsidized demolition with HRK 7500, and for constructing new buildings on the same plots they do not charge municipal tax. All this was based on the contracts between the city and the owners with no participation of the State.

The problems continued with torn-down buildings defacing the environment and presenting a threat to the safety of citizens and property. Such buildings could be demolished by order of the communal guards and the demolition costs were charged to the owners. These properties were not maintained, usually due to unresolved property rights or lack of financial means. Some were owned by the RC and located throughout the state. The City of Đurđevac was a positive example of dealing with this issue: it kept a registry of such buildings and subsidized demolition with HRK 7500 and did not charge municipal tax for the construction of new buildings on the same plots. All this was based on the contracts between the city and the owners with no participation of the state. However, most cities had no financial capacity to cover these costs on their own and needed assistance from the state.

The demolition of the buildings that were not damaged because of the owners' neglect, and charging them for the demolition which was not carried out with their consent, had a negative impact on establishing trust and revitalization of the war torn areas.

The situation complicated in poorly developed and war-torn areas, so, for example, in Lipik, such buildings were demolished, with consent of the owners, by the army, which was partially financed from the city budget. In Pakrac, during 2016 and 2017, in collaboration and at cost of the MD, a total of 77 buildings were demolished, and the City of Glina relied on their own budget to do the same. However, in all these areas, apart from the financial challenges for the owners and/or the local budgets, the majority of these buildings were ones for which the rights from the organized reconstruction programme were not realised, and which belonged to the members of the Serb national minority who continued living elsewhere. The cases when the buildings were being demolished without the owner's consent, were especially problematic, because this diminished their chances for return. Therefore, this was not simply a matter of maintenance and environment protection, because demolition of the buildings that were not damaged because of the owners' neglect, and charging them for the demolition which was not carried out with their consent, had a negative impact on establishing trust and revitalization of the war torn areas.

Public water supply and drainage

The climate change, water shortage and pollution made water an increasingly important strategic resource, and with the growth of numbers of citizens who cannot afford to pay utility bills, the conditions are set for a public and expert debate on the necessity to constitutionalize the right to water in the RC. It would, as a permanent social value, guarantee access to potable water and sanitary water to all citizens without discrimination and irrespective of political and/or market interests for privatisation.

According to the 2030 UN Sustainable development Programme, the supply of healthy, affordable potable water requires investments in infrastructure, sanitary facilities and improvement of hygiene at all levels. The 2017 data provided by the MEE revealed that 94% of the population had an opportunity to connect to the public supply system, but the real numbers on connectivity were lower because of the prices of water services, connection costs and population impoverishment, especially in the rural areas. In 2017, the local waterworks supplied approximately 65,000 citizens. This number gradually decreased after Public Suppliers of Water Services (PSWS) took over management of public waterworks as part of the implementation of the projects for the development of water utility infrastructure that were co-financed by the EU, but also with problems caused by the poor state of the existing system.

With the growth of numbers of citizens who cannot afford to pay utility bills, the conditions are set for a public and expert debate on the necessity to constitutionalize the right to water in the RC. It would, as a permanent social value, guarantee access of potable water and sanitary water to all citizens without discrimination and irrespective of political and/or market interests for privatisation.

The remaining population living in the settlements with less than 50 residents, predominantly in rural areas and on the islands, with no connection to the public water supply or local waterworks, have their own wells or other water sources they rely on, but this water is of dubious quality and safety. During summer drought, water tanks or water boats supply them with water, and the LGUs are obligated to ensure the water supply, not only by building the public supply infrastructure, but also by providing delivery of water in tanks. Therefore, water delivered in tanks should be priced in a way to cover the necessary costs, with no profit, which would guarantee supply of affordable and healthy water to all citizens. However, such obligation, despite of our recommendation, was never imposed. Instead, LGUs, continue to decide upon their own discretion, both on the supply modalities and prices.

The analysis of the PSWS business performance revealed an unacceptable dispersion of the water-utility sector with 173 operating PSWS, which mostly lacked expert staff. Another serious problem was also the loss of water in the water supply system, which amounted to an average of 49% of the total water volume in the system, and in some counties to almost 70%. Exploitation of unnecessary quantities of water,

The loss of water in the water supply system, which amounts to an average of 49% of the total water volume in the system, and in some counties to almost 70%, is as serious problem and there is a justified concern that the citizens will continue paying for the costs caused by systemic infrastructure neglect.

on the long-term, may lead to the disturbance of the biological and hydrological balance, and even to the shrinkage of natural water sources' capacities, which may endanger supply of certain areas. A study has shown that the price of water services, usually do not cover the mere consumption costs. Since the fee is calculated based on the system intake quantities, and not on delivered water (reduced by technical and commercially acceptable loss), according to the return of water services costs principle of the Framework Directive on Waters (FWD), there is a justified concern that the citizens will continue paying for the costs caused by systemic infrastructure neglect.

We continue to receive complaints about the water supply cuts due to non-payment of bills or final warnings before water supply cuts. Especially concerning were the cases of warnings issued due to the bills with expired statutes of limitation, which could be determined in court procedures only. Similar complaints have also been received by the MCPP. Thus, we reiterate our concern regarding the procedure and criteria for limiting and cutting off public services, which should be regulated by a law, and not by an act called The General and Technical Requirements for the Delivery of Water Services passed by service providers.

The citizens' complaints pointed to a perception that the water coming from the system of public water supply is free and they objected to paying the fixed part of the water price. However, the EU Court of Justice in the preliminary request launched by the municipal court in Velika Gorica no: C-686/15 explained the habitual and acceptable practice of other member states, to form the price of water services from a fixed and variable part, meaning, that as long as the principle of return of costs of water services was respected, the states may select their own way of determining prices.

However, special attention should be paid to the protection of the most vulnerable citizens and guarantee them access to minimum quantities of affordable water needed for satisfying the basic household needs. However, the Water Services Council warned that the Decisions on the water services prices of some providers continue to lack separate tariffs for the socially deprived citizens and that the quantities of water necessary for basic functioning of a household, linked to the payment of this tariff, were not determined. Despite of our recommendation, the quantity of the delivered water was still not legally defined by an Act and/or a Decree on the Elements for Calculating the Lowest Basic Price of Water Services and the Types of Costs Included as we have suggested, so the suppliers were applying the recommended World Health Organisation limit of 70 litres daily per household member.

RECOMMENDATIONS:

117. To the Ministry of Construction and Spatial Planning and the Ministry of Environment and Energy, to analyse comparative examples of citizens' participation in managing utility and water utility companies as part of the reform efforts of the utility and water supply system and to develop a proposal of implementation models fit for Croatian circumstances;
118. To the Ministry of Economy, Entrepreneurship and Crafts, to organise awareness raising campaigns and educational events on the topic of consumer rights' protection in the context of public services delivery;

119. To the Ministry of Public Administration and LRGUs, to inform citizens, in an adequate and comprehensive manner, of the possibilities for their direct participation in the decision making on the local level;
120. To the Government of the RC and LGUs, to carry out special measures to condition the procedure of removing torn-down buildings, especially the ones torn-down in war activities, with the owner's consent and to fully or partially finance the demolition from the State or LGU's budget;
121. To LGUs, to encourage more citizens to connect to the public water supply system, among others by partially or completely relieving them from the connection costs payment;
122. To the Ministry of Environment and Energy, to define by the law, the measures to be carried out before water supply cut offs, unique criteria and justification for limiting or cutting off supply, and to define the minimum quantity of water supply protected from suspension due to non-payment of bills;
123. To the Ministry of Environment and Energy, to create a draft of necessary legal amendments which would impose an obligation to the LGUs and/or public suppliers to organise alternative water supply and preferential prices for the citizens who are not able to connect to the public water supply network;
124. To the Ministry of Environment and Energy and the Croatian Waters, to continuously work on solving the water loss problems in the system, through close collaboration with associations of public providers of water services;
125. To the Ministry of Environment and Energy, in the process of defining the final pricing model for water use, to carry out measures ensuring that the final users do not cover unnecessary costs which they did not cause, and which occurred due to systemic negligence concerning water losses in the system;
126. To the Council for waters to propose adoption of the Decree on the elements for calculating the lowest basic price of water services and types of costs included;

3.14. UNEVEN REGIONAL DEVELOPMENT WITH SPECIAL FOCUS ON RURAL AREAS

In order to be very precise in identifying the challenges citizens had to overcome every day, during our field work we talked with mayors and heads of counties and local government units, representatives of development agencies and SWCs, CSOs, local action groups, representatives of national minorities, and citizens. Inappropriate health care and social services, institutions located too far away, poor public transport network, and lack of jobs are part of everyday life in rural areas. Almost everybody we talked to complained of young people and families leaving the rural areas, and highlighted the impact on the local communities.

„My parents live in the village of Kalje in the Žumberak region... . Just like any other Žumberak village, there are just a few people living there. Žumberak has no post office, no school, no shop, and no dentist. There is just a general practitioner's office working twice a week. A bus service runs to Samobor only, leaving at 5 in the morning and returning from Samobor at 15:35. My parents are close to 70. As you surely know, you need a doctor when you reach that age. They must go to Samobor, Karlovac or Zagreb for their medical examinations. It's quite a distance to travel. 47 kilometres from my dad's house to the hospital entrance, to be specific. Make your own calculation how much it costs my dad to travel to Karlovac for an examination in hospital. Gentlemen from the CHII, you have sent my dad the Decision mentioned earlier stating that he is not entitled to reimbursement of travel costs as the distance between Karlovac and his house is less than 50 km, mind you. So you say he has no right.... No one should be surprised that people are leaving Croatia! ... My parents have been paying their supplemental health insurance regularly, they are retired with lousy pensions."

Demographic Indicators

Over the past few years, Croatia has seen an accelerating negative trend in demography due to the negative birth rate and migration that has increased after accession to the EU in 2013. Accurate migration data are missing since many fail to report their departure to the government authorities. The heads of local and regional authorities stress the problem of outflow, and use various methods to estimate the current number of residents: number of bins distributed to households, number of children attending kindergartens or schools, and the number of patients registered with general practitioners.

CBS figures from July 2017 show that 36,436 people left the country in 2016. By far the largest group are 20 to 39 years old (47.7%). The Osijek-Baranja and the Vukovar-Srijem County recorded the most negative migration balance. An estimate of population trends until 2051 predicts that 5 counties: Karlovac, Šibenik-Knin, Požega-Slavonija, Lika-Senj and Sisak-Moslavina will see a population fall of 40-60%; a further 6 counties: Koprivnica-Križevci, Osijek-Baranja, Brod-Posavina, Vukovar-Srijem, Bjelovar-Bilogora and Virovitica-Podravina a 20-40% fall, whereas the Zadar and the Zagreb County will be the only ones to see a rise in the population, but only on account of the rise in the 65+ population. Should the present demographic trends continue, all counties will record a fall in the number of the young (0-14 years), by as much as 75.6% in the Sisak-Moslavina County. At the national level, there will be a rise in the older population by 40.8%, whereas the number of the young, i.e. the working

An estimate of population trends until 2051 predicts that five counties will see a population fall of 40-60%, six counties 20-40%, whereas the Zadar and Zagreb Counties will see a rise in the population, but only on account of the rise in the 65+ population. All counties will record a fall in the number of the young (0-14 years), by as much as 75.6% in the Sisak-Moslavina County, and only the number of the old will rise by 40.8%.

population, will fall by 35.5%, i.e. 31.5%. Consequently, the young will account for only 12% of total population, those of the working age 57%, and the old as much as 31%.[9]

The link between depopulation and the geographic distribution of poverty

The 2015 GDP figures published by the CBS in 2017 for all Croatia's counties confirm a high level of regional and interregional disparity. The national GDP per capita was HRK 80,555. However, the four eastern counties recorded the lowest figures: Virovitica-Podravina (HRK 44,428), Brod-Posavina (HRK 45,368), Požega-Slavonija (HRK 46,119) and Vukovar-Srijem (HRK 47,466). At the same time, the City of Zagreb had a three times higher GDP, standing at HRK 141,379.

These data should be considered in the context of territorial differences in the provision of social services, as we witnessed during our visits to various cities and municipalities. LRGUs have the obligation to provide to citizens some of the social services and allowances, such as costs of housing and home heating wood, accommodation for the homeless, and meals at soup kitchens. They further have to ensure availability of social welfare institutions that they have founded, for example decentralised homes for the elderly. However, the lower fiscal ability prevents the less developed units of local government from giving their inhabitants the level of social security equal to that of the developed units such as the City of Zagreb. It was not uncommon to hear from the mayors and heads that they were covering the housing costs only partially or not at all due to the lack of funds. The issue is described more thoroughly in the chapter on social care. The difference in the availability of public services can be seen in the capacity of kindergartens. Those in the Slavonia region accommodate fewer children, so that only 18.9% of those aged three to six in the Brod-Posavina County go to kindergarten, whereas the percentage in Zagreb is as high as 91%.

The available data show that 2016 saw a decline in the population segment at risk of poverty or social exclusion which, nevertheless, still stands at 27.9% and exceeds the EU average (23.5%). People in the rural areas are much more exposed to the risk of poverty, three times more so in the Brod-Posavina and the Virovitica-Podravina County than in the City of Zagreb and the Primorje-Gorski Kotar County. The situation is particularly difficult in the municipalities where the poverty risk rate is 40% or more, with the elderly and the working families on very low income representing an especially vulnerable group. These data clearly reveal the link between depopulation and the lack of available public services. Therefore, measures should be promptly developed to cater for the needs of citizens. Unfortunately, it is often heard publicly that the current situation is unsustainable. However, no appropriate and concrete public policies follow to change the situation for the better.

Depopulation is linked with the lack of available public services. Therefore, measures should be promptly developed to cater for the needs of citizens. Unfortunately, it is often heard publicly that the current situation is unsustainable. However, no appropriate and concrete public policies follow to change the situation for the better.

[9] Anđelko Akrap. Demografski slom Hrvatske: Hrvatska do 2051.; Bogoslovska smotra. Vol. 85. No. 3. October 2015. page 855-868.

Availability of Services

The heads of local and regional authorities and citizens alike complain of poor public transport connections between remote areas and urban centres. Lines are too scarce, and the timetables sometimes do not fit the citizen's needs making it difficult to commute to work and back, or attend cultural or other events in the city using public transport, and children cannot attend extra-curricular activities. The heads of LRGUs are aware of the issue, but stress the unprofitability of such transport services making it difficult for them to pay extensive subsidies for their operation.

Scarce public transport has an impact on the limited availability of social and health care services in the rural areas. The portion of the population that reported failure to fulfil a medical need is twice as high in the rural areas than in the cities, standing at 3% in 2015 compared to 1.5% of the urban population. The difference can be observed in the EU as well. However, it is much lower than in the RC. As explained by the inhabitants of the rural areas, the reason for not having received a medical service was mostly a long distance to health facilities and the inability to pay for medical services. Long waiting lists are an issue for rural and urban population alike. Although the Operational Program Competitiveness and Cohesion 2014 – 2020 included projects aimed at improving the access to primary health care, their implementation and, thus, the availability of health care to citizens depends on the capacity of each county to submit project proposals, which the Lika-Senj County did not do, for instance.

The portion of the population that reported a failure to fulfil a medical need is twice as high in the rural areas as in the cities, standing at 3% in 2015 compared to 1.5% of the urban population.

The elderly are a particularly vulnerable group in the rural areas as they lack the support of the system and are left to rely on their own resources. It is, therefore, positive that the heads of LRGUs recognise the importance of the *Zaželi* Programme (Make-a-Wish Programme) which provides an in-home assistance to the elderly. Although the programme lasts for 24 months, which is much longer than for public works that also include assistance to the elderly, it is necessary to provide a systematic and permanent assistance to them.

As a rule, the public water supply network coverage of rural settlements is insufficient, and connections to the sewerage systems are only sporadic. For those reasons, plans for construction or reconstruction of water supply and sewerage networks rely heavily on EU funds. A good thing is that project calculations include connection fees. Otherwise many households would not be able to pay for them due to their bad financial situation. This ensures the connection of all households.

Coexistence in the war-torn areas

Some areas have seen a wholesale change in the population structure in the wake of the war because the Serbs had left these areas and the Croats from Bosnia and Herzegovina and other countries that emerged from the breakdown of the SFRY moved in. The outflow from these areas is currently very high. With the expiry of the ban on house sale after their reconstruction, such houses have been put on sale at very low prices. Some of the inhabitants are in financial predicament living on very low pensions that they receive mostly from Bosnia and Hercegovina and Serbia. The heads of local governments say that there are more people on the electoral roll than inhabitants. Fictitious

residences are being registered in order to get health care insurance and welfare benefits, rather than voting rights, as largely assumed by the public.

Representatives of the Serb minority stress that, after having returned, some of the Serbian returnees departed (again). They fear that the changes in the regulations have stopped further reconstruction of housing i.e. completely halted the return of people that has already been anything but massive. Neglect of cemeteries and Second World War partisan monuments is also something they hold against the local authorities. The persons we talked to said that both the majority and the minority populations were hit by unemployment and migration, and that war traumas were still running deep so that efforts to restore mutual trust should continue.

Usage of ESI funds

A study was conducted in 2017 to evaluate the development index calculation used so far and to propose a new model. Based on that, the Government of the RC issued a Development Index Resolution and a Decision on LRGU classification based on the level of development. Introduction of new indicators of the population ageing index and education level was intended to account for highly negative demographic trends. The Resolution classifies the municipalities and cities into eight and the counties into four groups. All areas below the average level of development were given the status of assisted areas. The number of municipalities and cities listed as assisted has risen from 264 to 304.

Representatives of development agencies stress that some of the units of local government have restricted budgets and are short of people with the necessary expertise and experience in the preparation and implementation of complex projects. They complain of unclear property titles that impede the preparation, application for and implementation of projects, and of poor co-operation of local government units with the ministries.

It is a hopeful sign that the MRDEUF, acting as a co-ordinating body, issued an Instruction in 2017 that the contribution each project proposal may make to the resolution of development problems in a certain area should be taken into account. The intention is to encourage the use of ESI funds in the areas that seriously lag behind the national average. However, the representatives of the development agencies point to the limited financial and human resources in some units of local government i.e. their limited budgets and the shortage of people with necessary expertise and experience in the preparation and, especially, implementation of complex projects. They further point to the problems of unclear property titles and their complex and long resolution that impede project preparation, application and implementation. Other reported issues are poor co-operation between the units of local government and the ministries, delays in planned publication of public calls, and a slow process of project evaluation.

RECOMMENDATION:

127. To the Ministry of Regional Development and EU Funds, and the Ministry of Labour and Pension System – to co-operate with the units of local government in developing additional measures aimed at improving availability of services in the rural areas;

3.15. REFORM OF LOCAL AND REGIONAL GOVERNMENT

The constitutionally guaranteed right to local and regional government is, first and foremost, exercised and enjoyed by the citizens through their representative bodies. The European Charter of Local Government lays down the concept of local government as a right exercised through councils or assemblies whose members have been elected in free and direct elections. Local governments may have executive bodies that are accountable to them.

A reform of local and regional government that would be harmonised with the strategic documents and would follow continuous public consultation with all relevant stakeholders is obviously much needed.

Although set out in the umbrella strategic documents – The Strategy of Public Administration Development 2015 – 2020 and the Action Plan for 2017-2020 Strategy Implementation – no significant measure to reform public administration was taken in 2017. However, the MPA did kick-start a reform of the system of local and regional government by having adopted the Act to amend the Local and Regional Government Act that entered into force in December 2017. It was not foreseen in the strategic documents mentioned above. Some of the proposed solutions even jeopardise the fundaments of representative democracy at the local level. The solutions strengthened the position of executive heads of local governments against citizen representative bodies. This is contrary to the objective of representative democracy and the relevant international standards of functioning of local and regional government that aim at strengthening representative democracy and citizens' direct participation in governance at the local level.

During the public consultation, which lasted just 15 days instead of 30 days as it usually does, the Ombudswoman put forward her recommendations warning of the negative impact the proposed measures might have on citizens' participation in the operation of LRGU representative bodies, should this level of imbalance between the bodies of the representative and executive authority be introduced.

A reform of the way the bodies of local and regional government operate and their powers is obviously much needed, but not in a piecemeal fashion. A new comprehensive piece of legislation should be adopted following continuous public consultation with all relevant stakeholders, in particular with experts and representatives of the academic community, civil society and others. Unfortunately, the drafting of the bill, public consultation and the deadline for the entry into form (just one day after its publication in the Official Gazette) were short, which certainly did not contribute to a sound reform of the system.

3.16. FINANCES

3.16.1. Enforcements

Over years, we have been reporting on the problems of over-indebted citizens, and how in the current social context the present enforcement system has become a catalyst for more debt, thus generating a vicious circle, as worsening poverty indicators clearly show. Many citizens cannot get out of their excessive debts, which becomes a long-term problem. A lot of them call upon us with a feeling of despair, and deprived of their dignity as they have been pushed to the margins of society. This runs against the principle of the protection of enforcement debtor's dignity that should be respected during enforcement proceedings. Another principle to be respected is to make enforcement the least unfavourable for the enforcement debtor.

We are still receiving complaints and inquiries by enforcement debtors who have been asking for legal aid and information on the possibility of debt write-off. They appear to have no knowledge on rules and regulations and often lack basic financial and legal literacy needed to understand their rights and obligations. They continue to complain of the attachment of income protected from it due to the complex procedure to open the so-called protected account. The procedure is even more complex if the income is paid from abroad. Unfortunately, the government did not endorse our recommendation to find an efficient and easy way of making the necessary funds protected from attachment as provided by law. By far the largest majority of complaints and inquiries deal with enforcement based on an authentic document and its implementation as attachment of funds. This comes as no surprise because these proceedings outnumber by far enforcements against debtor's immovable or movable property.

„... in that way they put me into the situation in which I cannot afford to buy me and my child bread, let alone to pay for other overheads and costs of everyday life... I am also a single mother of a second grade pupil. I am a disabled worker receiving a 600 kuna survivor's pension each month and that is all income me and my child have to live on. I have no more strength to solve this on my own, because I am tired of this life. Every now and then I have to go to medical examinations and undergo an operation, all this over 2 years, my illness beyond everything else, enforcement proceedings have been suffocating me and destroying my health, my subsistence."

We were approached by a complainant who in 2017 had received a public notary's writ of enforcement that had been issued in 2013 for the collection of an invoice from 2012. The invoice was for HRK 73.66 for a public utility. The proceedings costs amounted to HRK 971.25. The way the public notary proceeded in that particular case meant that late payment interest had accrued at a very high rate until payment. Considering the debt amount, there is no proportionality in it and the amount of late payment interest becomes a fine, although the creditor should assume responsibility for untimely collection as well.

We received quite a few complaints about enforcement proceedings instituted by the KBC Zagreb (University Hospital Centre Zagreb) requesting the payment of invoices for some HRK 25.00 for medical services the hospital had provided to them. Yet, the enforcement creditor failed to check previously whether an individual enforcement debtor actually had to participate in the coverage of the medical costs. Moreover, there was even a case where the enforcement proceedings had been initiated for the collection of an invoice for a health care service that had not been provided at all. Such examples are indicative of several issues.

First and foremost, of disproportionality between the proceedings costs which an enforcement debtor has to pay and the debt amount to be collected in the enforcement proceedings. Because the KBC Zagreb retained a lawyer to represent it in the proceedings, the enforcement debtor has to pay nearly HRK 700 in legal costs besides the principal and interest on late payment. Although they are entitled to lodge an objection against writs of enforcement, citizens complained that neither had they ever received disputed invoices nor had any reminder been subsequently delivered to them. It was not clear from statements from business accounts that accompanied the writ of enforcement what the debt referred to,

„I need your help to have an amount of the interest written off, so that they could send me the real amount of my debt and I will somehow pay it off, my pension is 950 kunas, that's all I have, if I can start an action or anything else to have interest eliminated; I am at the edge and ask you for an urgent advice or help ."

so that they could not make it out whether they had to pay the invoice or not. It is a clear case of misconduct, and of a socially insensitive and unfair treatment of citizens, whereby the enforcement creditor tries to rectify its failures in financial operations, such as untimely and improper issuance and collection of invoices, by shifting responsibility to citizens.

If an enforcement debtor objects, it is only then that the creditor checks whether there are sound grounds for the motion for enforcement, and if it finds that they are missing, the creditor withdraws its motion. Another questionable issue is whether the enforcement creditor was justified in charging its debtor for the lawyer's fees, especially so as no lawyer is needed to make and submit a generic motion for enforcement. This is particularly true of a public institution that has its own legal and accounting department. Such enforcement proceedings were instituted against a large number of patients, which made their situation even more difficult. Many of them have no access to legal aid and do not know how to represent themselves. This example clearly shows how important it is to develop a mechanism of early enforcement prevention by sending a reminder. This is something that we have been repeatedly recommending as a statutory requirement for instituting enforcement proceedings. Yet, unsuccessfully. In this way, some enforcement proceedings could be avoided with no new costs added to the debt.

Unfortunately, neither did 2017 see the issues of enforcement and excessive debt being reduced to the level of individual cases. Indeed, they continue to involve many stakeholders and be the focus of attention of politicians, experts and the media.

Unfortunately, neither did 2017 see the issues of enforcement and excessive debt being reduced to the level of individual cases. Indeed, they continue to involve many stakeholders and be the focus of attention of politicians, experts and the media. The good thing is their growing visibility. At the same time, all that buzz in the media obscures a professional and responsible approach to the problem, thus increasing social tensions, and promoting the adoption of new, yet equally inappropriate solutions to the alarmingly high scope of the problem. People tend to create an over-simplified view that the cause of and the solution to all problems of citizens with high debt is the Enforcement Act. We have been hearing this idea on a daily basis from citizens who often rely upon what has been written in the media. Yet, such writings are rarely substantiated and aimed at finding systematic and viable solutions.

On the one hand, there is an increase in legislative proposals that provide casuistic and partial answers to problems that have been observed, some of which were adopted in 2017 (Act to Amend the Croatian Radio and Television Act, Act on Nullity of Loan Contracts with International Features Concluded in the RC with Unauthorised Creditors). On the other hand, the executive authorities still suffer a crisis of ideas although they are responsible for a timely adoption of comprehensive public policies that would systematically solve the problem and allow the citizens to overcome over-indebtedness. Although each good intention is welcome, caution is still necessary. Over-simplified views and unprofessional and hasty solutions without considering their long-term consequences and problems that might emerge as a result, i.e. some makeshift measures are an unacceptable way to conduct legislative activity that should not become a rule.

The European Commission, too, commented in its 2018 Report on Croatia the financial laws that were adopted in 2017. The Commission focused on the new legislation that annulled the validity of existing loans granted by foreign creditors and pointed to shortcomings in its adoption, and warned that its enforcement might be problematic. The latest amendments to the Enforcement Act that were the result of political consensus in July 2017 marked, in principle, a good direction by having affirmed the principle of proportionality and stipulated special conditions for imposing enforcement against real property as anticipatory measures to prevent any infringement of human rights, like the one ruled by the ECtHR in case Vaskrsić v. Slovenia in April 2017. However, the very fact that the adoption of these amendments was accompanied by an announcement of the work on a new Enforcement Act shows that they represent a partial and temporary encroachment on certain institutes, and that they failed to introduce the much needed comprehensive solution. Just as we warned at the time of their adoption.

It is necessary to come up with permanent and stable solutions building on simple, clear and systematic underpinnings, whose long-term impacts must be previously assessed. Their implementation must be continuous, what means that the practice of an inconsistent and casuistic normative activity that follows in the wake of the emergence of a problem has to be abandoned.

These amendments are just the most recent ones in already too long a row, making the enforcement procedure more intricate and difficult to understand, even to legal professionals. This may further lead to higher legal uncertainty.

They failed to tackle the issue of material shortcomings of the current enforcement procedure, such as too high and disproportionate costs, piling-up of separate enforcement proceedings for the same type of claims against one and the same enforcement debtor leading to cost multiplication, the problem of the so- called eternal enforcement, the problem of presumed delivery of notices, though it does not always mean that the enforcement debtor has been effectively informed, the poorly regulated procedure to open the so-called immune account used for payment of income that is immune from attachment, and accounts in respect of which enforcement is limited. In other words, the amendments did not stop the problem from escalating further, they offered no relief to those suffering under the disproportionally high burden of enforcement, especially long blockages, nor did they restore the true legal purpose of enforcement which implies its efficiency with all aspects of enforcement in balance, and, in particular, the procedural balance between enforcement creditor and enforcement debtor.

Therefore, the current enforcement system is still neither functional nor fair, because enforcement creditors do not succeed in collecting their claims, and debtors remain paralysed by debt and cannot get out of it.

Citizens' complaints demonstrate their lack of trust in institutions. They perceive enforcement proceedings as unjust, and receive no expected protection from institutions. The awareness of the responsibility and obligation to repay one's debt weakens, especially as citizens find debt to be unjust, mostly due to high costs and interest that often when small amounts are involved exceeds the principal amount by several times, so that debt settlement becomes impossible. In such context, the creditor's right to collect the claim that has become due may sometime appear less legitimate. However, such perception implies a serious threat that could undermine the rule of law as the highest constitutional value. Although citizens harbour animosity towards enforcement, we must not, nevertheless, overlook the fact that it is an important instrument that is indispensable in a well-functioning legal order. There are lots of situations where creditors, with whom citizens can identify, would otherwise be prevented from exercising their rights if their debtors would fail to voluntarily pay their justified and legitimate claims.

Additional problems are the fees charged by FINA as a fixed amount. That is an additional burden on lower debts, while their share in higher amounts is negligible. Despite our recommendation, the ordinance governing their type and amount has not been changed.

Amendments to the Enforcement Act from July 2017 did not stop further escalation of the problem, nor did they offer any relief to those suffering under the too heavy burden of enforcement, especially when their accounts have been frozen for a long time, nor did they restore the true legal purpose of enforcement, which implies its efficacy with all aspects of an enforcement procedure in balance, and in particular the procedural balance between the creditor and the debtor.

When drafting a new enforcement bill, it is necessary to avoid the traps into which the legislator has so far been falling, and frequent changes of legislation that governs enforcement – to introduce and then abandon certain legal institutes, such as public bailiffs, who were introduced in order to relieve courts of excessive workload and increase the protection of creditors. In an attempt to mitigate harmful consequences for the enforcement debtor, the legislator went then to the other extreme and created an unclear and

confusing set of rules that do not resolve practical problems and create legal uncertainty. It is necessary to come up with permanent and stable solutions building on simple, clear and systematic underpinnings, whose long-term impacts must be previously assessed. Their implementation must be continuous, what means that the practice of an inconsistent and casuistic normative activity that follows in the wake of the emergence of a problem has to be abandoned.

The majority of people with frozen accounts and against who enforcement proceedings have been taken are either middle-aged, unemployed, have only elementary school certificate, or live on lowest income. A significant number cannot even settle smaller amounts of their debt, primarily because of disproportionate costs that have been added to the debt and because of the collection order by which the principal is repaid last.

Account should be taken of the Judgements of the Court of Justice of the EU in cases C-484/15 and C551/15, both from March 2017, in which the Curia found that Croatian notaries public issuing a writ of enforcement based on an authentic document are not a court – neither within the meaning of Regulation (EC) No 805/2004 creating an European Enforcement Order for uncontested claims nor within the meaning of Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. The reason is that the procedure of the issuance by notaries public of writs of enforcement does not allow an examination of the application for their issuance on an inter partes basis what is, *inter alia*, the necessary requirement for a decision to be considered a court decision. Thus, a notary public writ of enforcement based on an authentic document is enforceable in the RC only. This fact must definitely be considered when adopting a new enforcement act in order to ensure appropriate protection to creditors.

It is necessary to avoid the situation of citizens who from 28 July 2005 until 16 June 2008 signed a statement by which they consented to have their whole salary i.e. the second permanent income attached in order to settle a creditor's claim. Although there are no official studies into the scope and structure of these cases, it can be assumed that debtors, probably because of their irresponsibility, had lacked enough information on the significance and legal consequences of their statements, and that they effectively had had no other option because the statement was a requirement for a loan agreement about which they could not negotiate. Therefore, future regulations should not be the cause of such a situation which puts debtors at risk, and where subsequent interference with disputed provisions brings the need to see social justice on a collision course with the protection of the rule of law although both are the highest values of a constitutional order and do not mutually exclude each other.

„I know that my account has been frozen for years now, to be precise for 1,432 consecutive days according to the latest notice of 3 March 2017 with the total amount for which my account has been frozen being HRK 33,487.26. I feel terrible, I have had this feeling of depression and being less worthy for years... The debt, if not cleared, would be a sign that I am becoming a lifelong slave to the state and have to repay what I'll never be able."

We should always bear in mind that the duty of the state is to enable the legal system to function as a coherent and consistent system of legislations that is in line with the principle of the rule of law as the highest value of a constitutional order. The Constitutional Court of the RC noted in its Ruling U-I-2881/2014, and another from 2016, and repeated in its later decisions, that it is the exclusive authority of the legislator to adopt, retain or remove certain institutes of the enforcement procedure from the accepted enforcement model i.e. to change the very model, whereas its only obligation is to comply with the requirements imposed by the Constitution, especially those that derive from the principle of the rule of law and those that protect certain constitutional values.

The following figures clearly indicate the scope of the current problem. At the end of 2017, some 319,752 citizens had frozen accounts and the amount of their debt rose to HRK 42.76 billion. They account for 11.23 % of the working age population i.e. 7.53% of the total population of Croatia. The majority of people with frozen accounts and against who enforcement proceedings have been taken are either middle-aged, unemployed, have only elementary school certificate, or live on lowest income. These are rather worrying figures. Just as much worrying is the fact that among them 86.40%, i.e. 276,270 have had frozen accounts for long time. Their debt amounts to HRK 41.68 billion, and accounts for 97.47% of the total debt. Although the total number of people with frozen accounts and those whose debt does not exceed HRK 10,000 (105,592 at the end of 2017 as compared to 117,638 at the end of 2016) is somewhat lower compared to the end of 2016, and the number of citizens with debt between HRK 10,000 and HRK 100,000 has remained the same, the number of citizens with high debt has increased further. The figures are indicative of the alarming situation in which a significant number of citizens cannot even settle smaller amounts of their debt, primarily because of disproportionate costs that have been added to the debt, and because of the collection order by which the principal is repaid last. This is the reason why they have frozen accounts and have been pushed into a situation where they are no more able to repay amounts that are or will become due, so that they move in a vicious circle with debts just piling up and getting higher. If the principal was repaid first, and then costs and interest, and the amount of interest on late payment was limited to the amount of principal, it would surely be easier for many to settle their debt in enforcement proceedings.

This level of excessive debt has not only been caused by the financial crisis and the high unemployment rate, but to a large extent by expensive enforcement proceedings that proved to be too burdensome for debtors with lower debts. The ensuing situation should already have been analysed carefully in order to have a new and comprehensive enforcement act that would put an end to the so-called debt industry that makes over-indebted citizens a source of profit for a few lawyers, notaries public and companies that have been buying outstanding claims, while debt continues to enslave a large number of debtors. Citizens have been increasingly complaining about the conduct of legal entities that engage in purchase and collection of claims. The issue is analysed in more detail in the chapter on the right to privacy. This shows how important it is to regulate this business properly and to impose supervision of the way it is conducted.

However, it must be communicated quite clearly that the new enforcement act, although needed, will not bring a comprehensive solution to the already existing situation. The problem of over-indebted citizens and citizens with frozen accounts requires immediate attention. It cannot wait for the new act to be adopted. Solutions should be sought within the principles of equity and

responsibility, whereby insolvent debtors should be empowered and helped to find a way out in a dignified manner and the position of creditors protected as much as possible. To that end, the institute of consumer bankruptcy should be activated and improved. It should be accompanied by a financial literacy drive to prevent future over-indebtedness.

3.16.2. Consumer Bankruptcy

Unfortunately, data published by FINA and the MJ show that, also in 2017, just a few citizens struggling under the weight of an overwhelming debt load opted for consumer bankruptcy proceedings as an alternative to enforcement. There is an obvious imbalance between the number of bankruptcy applications filed and the amount of debt reported, on the one hand, and the number of citizens with frozen accounts and the value of their debt on the other. FINA suggests that so few out-of-court settlements (just seven in 2017) were made because mostly those consumers with no property, who receive only salary or pension, or have no income at all, decide to file for consumer bankruptcy. As a way of discharging their obligation, they propose to have the debt reduced by 100%, or offer to settle just a portion of it, something creditors refuse to accept.

At present, only two trustees have been appointed. Even if more debtors filed for personal bankruptcy, there would be no capacities to carry out such proceedings.

The second most common reason is the lack of interest on the part of creditors. They fail to appear at scheduled consultation meetings, and answer the proposed obligation discharge plans. The result is the issuance of a confirmation of a failed attempt at making an out-of-court settlement. A survey conducted by the Faculty of Law of the University of Zagreb shows that debtors do not start the proceedings because of their optimism that they would be able to independently pay off their debt despite its excessive amount, because of the fear of the loss of property, or insufficient information about the proceedings. One third of the respondents were not at all aware of the option.

Problems with the implementation of this type of proceedings are related to the absence of clear provisions governing the treatment of certain obligations in the period when the debtor's conduct is being checked, and particularly the lack of interest in the office of a trustee. At present, only two trustees have been appointed. Even if more debtors filed for personal bankruptcy, there would be no capacities to carry out such proceedings. Thus, a further analysis of the present impacts of the Consumer Bankruptcy Act is needed to see how to improve it and make it more efficient without threatening dignity of over-indebted citizens.

3.16.3. Debt Write-Off and other measures for a way out of over-indebtedness

FINA's data show that the largest portion of the total consumer debt is still the one owed to banks although it fell by 6% in 2017 as compared to 2016. We still have to see to what extent the fall can be attributed to the tax reform which aimed at incentivising credit institution to grant debt cancellation, or to the sale of the so-called bad loans to claims purchase and collection agencies, as

there was no citizen deleveraging. An analysis[10] warns of a debt growth and the important role the so-called other sectors of creditors have in its structure, with legal entities engaged in claims purchase being the most important. In relation to the share in the total debt and the number of citizens against who there are on-going enforcement proceedings the central government takes the second place among the creditors. Despite our inquiry, the MF did not send us any information on the tax debt write-off in 2017.

The most vulnerable insolvent debtors should be helped by a well-designed and targeted set of interdepartmental measures whose systematic impacts have to be previously assessed. This requires precise social and economic criteria that rely on solidarity, and a clear distinction between various categories of citizens with frozen accounts. However, these measures were not introduced in 2017 although they had been announced as measures for debt write off.

It is also necessary to raise the awareness of creditors' responsibility for debtors' timely and voluntary discharge of debt, and in case of debtors' failure to pay, to develop efficient mechanisms for claim collection prior to instituting enforcement proceedings, such as a remainder and direct communication between creditor and debtor. This would create balance between the creditor's interest to have his claim settled and the debtor's to pay off the debt without adding costs.

Taxation policy directly serves to show the state's attitude to human rights not only by providing sufficient funds to finance their exercise but also by the way the taxation system helps to eliminate discrimination and inequality.

The Consumer Housing Loan Act 2017 additionally strengthened the protection of rights of financial services users, although it applies to a certain type of loans only. The level of consumer protection has been raised high through the judgement of the EU Court of Justice in case C-186/16 from September 2017. It refers to a double test of (un)fairness of contractual terms of loan agreements and to strict requirements that financial institutions have to meet when creating legal relations with customers.

The Consumer Housing Loan Act strengthened the protection of rights of financial services users. Consumer protection has been further improved by a judgment of the EU Court of Justice which points to strict requirements that financial institutions have to meet when creating legal relations with consumers.

Some consequences of the improved protection are already reflected in more stringent criteria for assessing creditworthiness. Yet, the forthcoming period will effectively show its true impacts. In its 2018 Report on Croatia, the European Commission points to an upward trend in new borrowings by households in 2017. Some experts warn that the cost of improved protection could lead to a negative final outcome as the vulnerable group of debtors with lower creditworthiness might be discouraged from using the official financial system and turn to an unregulated market, even to loan-sharks.

[10] „Ovršni dug (blokade) građana: razmjeri, struktura i pravci za pronalaženje rješenja", Arhivanalitika za Hrvatsku udrugu banaka, November 2017

3.16.4. Taxes

In 2017, the property tax arose strong interest. It had been introduced as a part of the tax reform in late 2016 as the Local Taxes Act only to be abolished even before its application in October 2017 because of high public discontent. This case, too, is indicative of an inconsistent and rash approach to an issue that is important not only for every citizen but also for society and the whole country. Such conduct erodes citizens' trust, and shows the lack of responsibility in adopting regulations. We warned of the shortcomings in the procedure of adopting the new acts under the tax reform package, and advised caution as the majority of new acts, including the Local Taxes Act, did not undergo public consultation, and no impact assessment for new regulations was made. The latter is of paramount importance, because of their consequences for socially vulnerable groups. The fate of the property tax showed the negative results of such practice.

The EC foresees that the tax reform will give rise to an increase in inequality since it does not target households on low income. Thus, it is necessary to carry out the impact assessment for regulations under the so called tax reform package, and to timely take measures to counter negative effects they might produce.

Taxation policy directly serves to show the state's attitude to human rights, not only by providing sufficient funds to finance their exercise, but also by the way the taxation system helps to eliminate discrimination and inequality.

Freedom the lawmaker has in designing a taxation policy is limited by the obligation to respect the fundamental constitutional principles of equality and equity. A prior comprehensive impact assessment of taxation legislation is crucial for the state to fulfil this role and for its relation with citizens, because it is the only way in which it can fulfil its obligation to prevent those persons close or below the poverty line are pushed deeper into poverty through taxation policy.

Public consultation that precedes the adoption of legislation allows the public to express their opinions and remarks, and in that way contributes to the adoption of best solutions. It also helps citizens to be timely informed of and prepare for new regulations, so that they develop the highest possible confidence about the equal distribution of tax burden and the proper use of funds collected.

Therefore, each new piece of legislation should be subject to a prior comprehensive assessment of its impacts on human rights, and the public should be fully informed in advance of its impacts on the social care, health care and pension systems, and on their life and standard. It is an obligation imposed by the International Covenant on Civil and Political Rights under which every citizen must have the right and the opportunity to participate in the conduct of public affairs.

In its 2018 Report on Croatia, the European Commission assessed that no progress was made in respect of the recommendation to introduce the property tax. It also observed that its introduction had been postponed without any indication as to if and when its implementation would start. This is also a case of the lack of clear and timely communication about the taxation policy. The European Commission foresees additionally that the tax reform will give rise to an increase in inequality since it does not target households on low income. Thus, it is necessary to carry out the impact assessment

for regulations under the so-called tax reform package, and to timely take measures to counter negative effects they might produce.

We have been continuously receiving complaints about the long duration of second-instance proceedings before the MF since they considerably exceed the two-month term within which an appeal must be decided and the decision delivered to the appellant. A good example is the case of a complainant who in July 2010 had appealed against a tax assessment notice within the stipulated time. However, the second-instance decision was rendered as late as February 2014, and it took the Ministry a further three years to deliver the decision. The position of citizens is made even more difficult in cases where the appeal has no suspensive effect so that besides long waiting there is a possibility that they may be deprived of funds during that period without grounds for it.

> …on 27 October 2015, a taxpayer filed appeal against the tax notice… which we forwarded to the Independent Sector for Second-Instance Administrative Procedure on 5 July 2017 to decide on the appeal. We have to stress that the employee in charge was on sick leave and the division office moved from the second to the ground floor, so that we omitted to submit the appeal for decision within the statutory term.
>
> Appeals were not decided on within the stipulated time due to a large number of appeals filed and insufficient number of employees working on them.

Although no data for 2017 were received from the MF, the present trend corresponds to the earlier data that show that in 2016, the Independent Sector for Second-Instance Administrative Procedure handled 38,399 cases out which one third were new cases. It takes them two and a half years on average to decide on an appeal. Priority is given to cases valued more than HRK 5 million. Among other cases, first are handled cases where a rush note has been received from a state body, state attorney's office, the ombudsman' office or a first-instance body. Citizens are forced to send rush notes and seek help with other bodies in order to have their appeal decided on. Moreover, they are not familiar with the possibility to bring an administrative action for administrative silence. This prioritising method may be accepted in terms of the importance for the budget and needs to be financed by it. However, each citizen has the right to have their case handled fairly and within reasonable time, and every state body has to respect that right.

RECOMMENDATIONS:

128. To the Government of the RC, to adopt a plan of differentiated and targeted measures aimed at easing the situation of over-indebted citizens, securing financial security for them, and at building a responsible payment culture, relying on a comprehensive analysis of the excessive debt issue in Croatia;

129. To the Ministry of Justice, to draft a new enforcement bill and other regulations that are applied to the conduct of enforcement in order to have a fair, simple, cheap, systemic, viable and efficient enforcement model that would protect the procedural balance between the parties and the enforcement debtor's dignity;
130. To the Ministry of Justice, based on the impact assessment of the Consumer Bankruptcy Act to propose amendments to the Act, eliminate legal gaps, streamline and speed up proceedings for the most vulnerable consumer categories most, and to offer them an efficient protection of their dignity;
131. To the Ministry of Science and Education, to include a financial and legal literacy programme at all levels of the education system:
132. To the Ministry of Finance, to analyse how purposeful and proportional FINA's fees are, and to modify the Ordinance on fees type and amount charged for services provided under the Act on the Enforcement of Monetary Funds in a way as to prescribe necessary fees only in proportional amounts;
133. To the Ministry of Finance, to reorganise their operation and to fill the vacancies in order to be able to handle administrative proceedings at second instance in a timely manner.
134. To the Ministry of Finance, to draft legislative proposals in line with the Impact Assessment of Regulations Act and the Code of Consultations with the Interested Public;

3.17. CROATIAN HOMELAND WAR VETERANS

„...I am a child of a fallen Croatian soldier... I applied for a vacancy in the town council as I thought that I have priority consideration over other applicants. However, the mayor insisted that war veterans are not given any preference at all. It is what they stated in the decision informing me that I did not pass... the decision has no instruction about the right to appeal nor any notice of available remedies... I need a job, my husband and I are both unemployed and have two daughters..."

The number of complaints filed by Croatian Homeland War veterans and their family members is more or less the same as in 2016. This shows that a large number of them has not regulated their status yet or has not done it adequately.

The year saw the adoption of a new Act on the Rights of Croatian Homeland War Veterans (ARCWV) and their family members. Over the past years, the Ombudswoman issued recommendations to the Ministry of the Veterans' Affairs (MVA) indicating the need for a comprehensive piece of legislation since their rights were regulated by some dozen acts and subordinate regulations. Consequently, veterans found it difficult to cope with the multitude of laws, and the state institutions were not prompt in deciding on their rights and obligations. Besides, the regulations had often been enacted by urgent procedure without good public consultation and proper involvement of the veterans. That created mistrust and suspicion among them that the

legislative changes were aimed at abolishing rather than improving their rights. As the new act started to be applied in 2018, and some of its parts will be applied even later, we still have to see to what extend it will meet the expectations and solve problems that have been piling up for years.

Taking into account the fact that the new Act intends to provide comprehensive and long-term viable solutions, the Ombudswoman's Office supported its adoption and highlighted that its drafting should in particular consider all proposals of the interested public, so that all challenges that had emerged during and in the wake of the Homeland War would be effectively eliminated for all veterans. Nearly all our recommendations from the 2016 Report were endorsed and incorporated into the Act.

The veterans associations estimate that there were more than 3000 minors who defended the country. Not only have they been denied the credit for their contribution, but were treated poorly after the war as they were not given appropriate psychological support so that they could reintegrate in society and return to their everyday lives with more success. Their contribution could be recognised by incorporating them in the Act as a separate category of Homeland war i.e. volunteers in accordance with other necessary requirements.

However, the ARCWV did not solve all outstanding issues, especially those concerning the veterans who took part in the Homeland War as minors. Additional efforts should be invested into finding an appropriate model for recognising the contribution to the Homeland War of those veterans who voluntarily joined the Croatian Armed Forces as minors and to give them due credit for that. One of the models would certainly be to classify them in the Act as a special group of veterans i.e. Homeland War volunteers, in accordance with other necessary requirements, regardless whether this would also result in the recognition of certain entitlements and/or other rights. The veterans associations estimate that there were more than 3000 minors who defended the country. Not only have they been denied credit for their contribution, but were treated poorly after the war as they were not given appropriate psychological support so that they could reintegrate in society and return to their everyday lives with more success.

The major problems still are the expiry of the term during which one could have their status of a Homeland War veteran recognised, the non-recognition of certain period they fought in the Homeland War, and bad financial situation of many war veterans and their family members. In addition to the elapse of time, the veterans blame official records that were kept poorly. Although the ARCWV provides for the possibility to apply for status recognition, the problem again might be incomplete and inaccurate records. According to state administration office information, it is very difficult to obtain data on one's service from the Croatian Army, and the procedure may sometimes even take years. That is why it was necessary to include in the ARCWV specific terms within which the MD and the MI have to submit data to fill in the records of the MVA. Unfortunately, this was not done.

It is difficult to exercise the right under the ARHWV which gives preference to war veterans in employment opportunities, because the right has not been applied consistently, and neither holders of the right nor employers know enough about their rights and obligations. In order to exercise the right to be given preference in employment, a person who fulfils requirements must submit their application accompanied by other documents provided by law. However, vacancy announcements often do not even mention that right nor that the certificate of status must not be older than six months. For that reason, many do not know that they may refer to the right or their job application is unsuccessful because of the certificate older than six months. No information received of the selection of another candidate, which happens often, prevents veterans from the use legal protection, although it has turned out to be inefficient in so many cases. Administrative inspections and labour inspections are not prompt enough, which is especially the case in fixed-term employment contracts. By the time the inspection service issues a final decision confirming an infringement of the right of a veteran to be given preference in employment, the fixed-term of the vacancy usually elapses. The law provides for no measures aimed at removing harmful consequences, for example compensation for damage, rights from the pension insurance and the like. In such cases veterans may only seek compensation for damage by engaging in litigation for which they lack either knowledge or funds.

Besides, state and LRGU majority-owned companies are still not obliged by any law to announce vacancies or to invite for public competitive examination for employment, so that they tend to avoid doing that. Nor will the provisions of the ARWV solve the problem completely as it prescribes that public services and institutions founded by the RC, a municipality, city, county, non-budget and budget funds, legal persons owned by the RC and LRGUs, and legal persons with public authorities, have the obligation to give preference under the same conditions to unemployed holders of that right when recruiting employees on the basis of a public competitive examination, vacancy announcement or some other recruitment procedure. The wording "on the basis of some other recruitment procedure" opens the way for evading the right of preference in employment.

Many war veterans and their family members are in a very difficult economic and social situation. Therefore, the ARWV should have made it possible for all who were part of the combat troops to receive an one-off benefit for inability to pay for their basic needs.

Regulations and decisions which give preference to vulnerable social groups are allowed and necessary because they serve to improve their position in society. These groups have to be informed of the rights they have and the ways to exercise them. Statutory rights must not be illusory i.e. they must be reasonably and objectively exercisable by their holders. Otherwise, it is just a proclaimed right that cannot be effectively enforced.

Furthermore, in 2017, the MVA paid HRK 5 million in one-off benefits to 3,604 clients and more than HRK 2 million in emergency one-off benefits to 951 clients. These figures are worrying as they undoubtedly show that a large number of veterans and their family members are in a very difficult social and economic situation, and that they are struggling every day to meet their basic needs. It is precisely because of these trends that the ARWV should have made it possible for all who were part of the combat troops, regardless of the number of days in combat operations, to receive an on-off

benefit for inability to pay for their basic needs. The problem of providing housing to war veterans still persists. The problem is discussed in the chapter on housing issues.

In 2017, centres for psychosocial assistance provided psychosocial assistance to 52,018 clients in 61,668 interventions under the National Programme for the Provision of Psychosocial and Other Forms of Health Assistance to the Veterans and the Victims of the Homeland War and World War II and to the Persons Returning from Peacekeeping Missions. At the request of the MVA, the centres had some 2,151 mobile interventions. The demand for programmes of psychosocial assistance exceeds the capacities. This is largely due to the fact that, instead of being based on a comprehensive programme of rehabilitation, the mechanism to ensure and provide care and support is mostly based on pension and welfare programmes.

The MVA and the MH have continued with the programme of preventive health examinations in the while territory of the RC aimed at early detection of oncological, cardiovascular and other chronic diseases. In 2017, 16,626 Croatian war veterans underwent medical examination under the programme in 29 municipal, county or university hospitals.

RECOMMENDATIONS:

135. To the Government of the RC, to work out solutions that would bind public services and institutions founded by the RC or a LRGU, non-budget and budget funds, legal persons owned by the RC or a LRGU, and legal persons with public authorities to call for public competitive examinations for employment and announce vacancies;
136. To the Ministry of Defence and the Ministry of the Interior, to lay down terms by way of an ordinance for the submission of data to the Ministry of the Veterans' Affairs for its records;
137. To the Administrative Inspectorate and the Labour Inspectorate, to carry out efficient procedures for detecting cases of infringement of the right of Croatian Homeland War veterans to be given preference in employment.

3.18. CIVIL VICTIMS OF WAR

"...we have been searching for answers about our missing brother... ...he went missing in 1991, we gave blood samples, photographs, names, yet no one has ever contacted us... do we have the right to ask for sympathy, a national flag for the life he gave for his county...can Croatian institutions do anything so that we finally know where he was massacred... do people have to solve unresolved cases on their own ... I have already lost one life and nothing stops me to seek vengeance."

Compared to 2016, nearly no improvement was made in resolving the problems of civil victims of war. Not many have their status resolved nor may claim their rights. There are still no official data on the number of civil victims of war in the RC. CSO estimates are between 4,000 and 8,000.

The Act on the Protection of Disabled Veterans and Civilians Disabled in the War has so far been amended 14 times, but failed to include all categories of war victims and to meet their needs and expectations. The result of all the amendments was the reduction of their rights. The Act regulates the special protection for 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 makes no mention of civil victims of war at all. Thus, victims who have been trying to assert their rights within the existing legal framework, have often been facing difficulties, and in some cases huge expenses and lengthy procedures.

The issue of the fate of missing and forcibly disappeared persons in the Homeland War remains the most complex unresolved consequence of the war in Croatia. The official records show that as of 31 December 2017 the number of persons still reported missing was 1,526. There are 419 requests for search for mortal remains with unknown burial place.

Besides that, victims have not been given appropriate institutional, psychosocial or other type of support although the MVA has been running the National Programme for the Provision of Psychosocial and Other Forms of Health Assistance to the Veterans and the Victims of the Homeland War and World War II and to the Persons Returning from Peacekeeping Missions. The backbone of the programme are the 21 county centres for psychosocial assistance. The health care part of the Programme has been provided in the Regional Centres for Psychotrauma and the National Centre for Psychotrauma. In 2017, the employees of the centres and external experts participated in training events dealing with the system of assistance so that they would be able to refer victims to additional forms of support. However, the total number of interventions clearly show that the current capacities are insufficient to meet the needs of all target groups. More information about the issue is provided in the chapter on the rights of the Croatian Homeland War veterans.

The shortage of funds should not be a reason for failure to adopt a single piece of legislation that would bring together all rights of civil victims of war because more than 20 years have passed since the end of the Homeland War. Any person who has experienced violence is entitled to justice, support and respect of society.

Unfortunately, the MVA did not act on the Ombudswoman's recommendation from the 2016 Report to draft a Bill on the Rights of Civil Victims of War and to conduct public consultation on it. According to the information from the MVA, the Minister made a decision in September 2017 to set up a Working Group that should carry out an analysis of the current situation and draft a legislative proposal on the rights of military and civil victims of war and their family members. The Ministry noted that the scope to which rights would be extended and the moment the draft would be submitted for further procedure depended on the availability of funds to be earmarked in the state budget. However, this does not amount to an excuse for failure to adopt a single act that would bring together all rights of civil victims of war because more than 20 years have passed since the end of the Homeland War. Those involved in developing public policies obviously tend to forget that any person who has experienced violence is entitled to justice, support and respect of society, to fair and appropriate compensation for gross violence suffered, psychological, medical, legal and any other type of assistance.

The MVA should draft the Act on the Rights of Civil Victims of War on the same principles it followed for the drafting of the ARHWV, and include in the drafting procedure the very victims and all other stakeholders in order to produce an act that would be a result of consensus, inclusion and co-operation. In this way, victims would be given an opportunity to receive timely and detailed information of their rights and the way to enforce them. They would be actively included in the community, and the quality of their life will improve. The term "civil victim of war" needs to be clearly defined, regardless whether or not the granting of the status would result in certain entitlements and/or other rights. In accordance with the UN General Assembly Resolution 60/147 civil victims mean persons who, either individually or within a group, experienced damage, including bodily or mental injury, emotional suffering, material loss or gross violations of their fundamental rights by actions or omissions that constitute gross violations of international law. Besides, solutions applied to the problems of civil victims of war should honour the 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, and the UN General Assembly Resolution concerning compensation, restitution, rehabilitation, resolution of the fate of missing persons, symbolic reparations and a guarantee of non-repetition of crimes.

The issue of the fate of missing and forcibly disappeared persons in the Homeland War remains the most complex unresolved consequence of the war in Croatia. In 2017, the remains of 53 persons were exhumed, and the remains of 28 persons were finally identified. The official records show that, as of 31 December 2017, the number of persons still reported missing was 1,526. There are 419 requests for search for mortal remains with unknown burial place. Therefore, it is necessary to increase efforts to finally solve these cases. In addition to exhumation of remains of persons killed in the Homeland War, 212 remains of persons killed in World War II were exhumed in 2017.

The State Attorney General of the RC, the Attorney General of Bosnia and Herzegovina, the War Crimes Prosecutor of the Republic of Serbia and the UN local co-ordinator in Bosnia and Herzegovina signed in 2015 the Guidelines for the improvement of regional co-operation in war crime prosecution and search for missing persons. The Guidelines are intended to help the prosecution services in their work on ongoing cases, exchange of experience and data for witness support, and exchange of information that may help in the search for missing persons. Following the Guidelines, a project was designed and implemented under the UNDP whose aim was to additionally improve regional co-operation between the prosecution services and commissions engaged in the search for persons went missing during the Homeland War. However, despite all efforts and initiatives no greater progress has been made in the prosecution of war crimes and improving search for missing persons. It is, thus, necessary that the institutions take measures to ensure non-selective prosecution of perpetrators of war crimes.

Victims who sought civil legal remedies through civil suit for intangible loss due to the death of a close person were unsuccessful and now have to pay high legal costs. Their claims were mostly dismissed because of the limitation period or other procedural reasons as they were not supported by convictions for a war crime or some other criminal offence. The fact that the prosecution of the perpetrator had for many years been in the preliminary phase of investigation was not taken into account. For that reason the Government of the RC should analyse the existing regulations and find

a way how to cancel the claims for litigation costs, something that the Government has already included in its Operational Programme for National Minorities 2017-2020.

There still has to be resolved the issue of compensation for and restoration of property owned by ethnic Serbs, Croatian citizens, that had been destroyed in the territory that was under control of the Croatian authorities and where there had been no armed conflict. The issue emerged in 1996 by deletion of Article 180 from the COA. Official data are missing, but the estimates of the CSOs say that between 6,000 and 8,000 structures owned by Serbs had been damaged or destroyed by explosives or arson. Under the Act on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations, damages may be claimed for intangible loss due to the loss of life or bodily injury or other health impact, but not for destroyed property. A remedy for a destroyed house and other immovable property may be sought only under the Reconstruction Act. However, it governs only the issue of reconstruction of structures if the holder of the right had been using the destroyed structure up until the beginning of the war. Only the net area of the structure may be used for reconstruction, which is often much smaller than the actual floor area of destroyed houses. In addition to that, problems for applicants for reconstruction are official lists made by the commission for war damage assessment that often do not correspond to the actual level of damage, and the obligation to make a statement under the threat of perjury that the applicant would return to the family house or flat after its reconstruction and live there with his/her family members whose names have to be submitted.

There still has to be resolved the issue of compensation for and restoration of property owned by ethnic Serbs, Croatian citizens, that had been destroyed in the territory that was under control of the Croatian authorities and where there had been no armed conflict. The issue emerged in 1996 by deletion of Article 180 from the Civil Obligations Act.

Complaints filed by citizens show that the current legislation on reparation and rehabilitation is not comprehensive and viable on the long run, what often causes additional victimisation and traumatisation. For example, the Commission for victims of sexual violence turned down applications in several cases although supported by final indictments for war crimes whose factual descriptions contained allegations of sexual abuse, or appropriate medical documents from the time of sexual abuse. The fact that in 2017 the MVA's Commission for victims of sexual violence received just 26 applications under the Act on the Rights of Victims of Sexual Violence during the Homeland War and only 12 were granted shows that the current practice of the Commission is discouraging for any future applicants and does not contribute to their rehabilitation. The care for those who were exposed to suffering and still feel the consequences of war must be a constant challenge and a lesson in the value and necessity to respect human rights even in the harshest times.

RECOMMENDATIONS:

138. To the Ministry of the Veterans' Affairs, to draft a legislative proposal on the rights of civil victims of war, and to adopt an ordinance on the records of civil victims of the Homeland War;

139. To the Ministry of the Veterans' Affairs, Ministry of Justice and the State Attorney's Office to intensify co-operation with other countries and judicial authorities on the issue of missing persons;
140. To the Ministry of Justice, to draft a Bill to amend the Reconstruction Act in a way as to enable an appropriate and prompt procedure of compensation for damage due to terrorist attacks and public demonstrations;

3.19. HEALTH

"At the age of 39, I began falling down due to terrible epileptic seizures. The solution was confinement to the psychological medicine ward for a long three-week period (with two children aged 4 and 6 waiting for me at home). Later, after status epilepticus and a comma that I hardly survived, epileptologists, who were in charge, sent me to a psychiatrist. By pure chance, a person working on the neighbouring ward got involved, so that everything was done in partial secrecy, and she detected autoimmune Hashimoto's encephalopathy. A rare case. The adequate treatment started then. Unfortunately, my liver did not respond well to the medicine that could have solved my problem permanently. Four days ago, while at home, I fell and hit my head. My children have to watch scenes like this one as they are growing up. Everybody is just shrugging their shoulders. The Chamber, nothing.... The social aspect... moving to a 35-m² house to pay overhead expenses more easily, my husband lost his job twice because of me... I cannot receive my therapy at home because it is difficult here and I do not want to wait for another seizure and go to hospital. May children, aged 10 and 7.5 watch over me with pills and rectal tubes in their pockets)... HELP ME, PLEASE."

The health care system in the RC and the manner of health care financing, based on the principle of solidarity and mutual aid, witnessed no improvement in ensuring the quality and availability of health care. Therefore, the RC was deprived of a reform of its health care system that would ensure more protection in relation to one of fundamental human rights – the right to health. The health care sector has been facing problems for many years, ranging from financing the system itself, its organisation to human resources, which results in the disregard of the basic principles of health care at the expense of patients as its unavailability in various forms manifests itself once again. The UN's Special Rapporteur on the right to health arrived at the same conclusion after his visit in 2016, emphasising that Croatia needs systematic improvements in health care quality and availability.

The European Pillar of Social Rights emphasises the right of every individual to timely access to quality preventive and curative care at favourable prices, while citizens' health and well-being constitute one the UN's Global Goals for sustainable development, in the sense of ensuring a healthy lifestyle and promoting well-being for persons of all ages.

The new Health Care Act, whose adoption was planned for 2017 as a tool for implementing the most important reform priorities and measures of the Croatian Government in the health system, has not been adopted. Neither acts, ensuring a higher level of health care quality, data safety in the

electronic system and patient's personal data protection (Act on the Quality of Health Care and Social Welfare, Health Inspection Act and Act on Information and Data in Health Care), have been adopted. According to 2018 EC Report for the RC, the highest portion of the total expenses for health care, which are among the lowest in Europe, is spent in hospitals, and the financial insufficiency of the system is reflected in the reduced quality and availability of health care services.

One form of the unavailability of the right to health care services are too long waiting lists, as well. Measures were taken to reduce them, but mostly in the form of occasional pilot projects. Some relatively small steps have been taken instead of the health care reform, that was abandoned, so that health care services are still unavailable to citizens. The EC arrived at the same conclusion in its 2017 Overview of the State of Health and Health Care. At the same time, the Regulation on the Medically Acceptable Time Period for Receiving Medical Services has not been adopted yet. In our reports for 2014, 2015 and 2016 we warned about it.

To reduce waiting lists, the Ministry of Health (MH) ran a pilot project called e-Appointments – Priority Appointments in four Zagreb hospitals over three months in 2017. The main activity of the project was to ensure first appointments with a specialist within a week for all priority patients needing their first specialist examination. Some 1,284 patients were included in the project, which represents a small number only compared to all waiting lists and the number of appointments with over 230,000 patients. Since patients whose health condition did not call for an urgent intervention were not included in the project, the only option left to them was to wait for specialist examinations, diagnosis and therapy for several months.

In 2017, the number of patients who had their appointments made for diagnosis and treatment increased by 35,742 compared to 2016, and they had to wait for 13 days longer.

At the MH's request, the CHIF invited tenders for further provision of diagnostic and therapeutic treatments, for which patients had to wait for a longer time. Contracts were concluded with several medical institutions and private practitioners. However, this produced no results as the number of patients who had their appointments made in 2017 increased by 35,742 and they had to wait for 13 days loner on average.

The implementation of projects co-financed from ESI funds is slow. Therefore, it was only by the end of 2017 that Croatia started absorbing funds for the health sector. These projects aim to ensure better health care quality and availability, especially in deprived or remote areas of the RC and on the islands, on the primary care and hospital levels, by investing in infrastructure, medical equipment and human resources. Ideas and solutions for better access of Croatian citizens to health care services are available, but, as is often the case, one needs to overcome administrative barriers which often prevent citizens from exercising their rights as they slow down implementation.

Neither did the project to establish Helicopter Emergency Medical Services, announced as early as 2014, contribute to the availability of health care in remote and deprived areas and on the islands, because its implementation was postponed to 2021-2027. The project to establish emergency medical services by means of fast vessels connecting islands with the mainland seems promising as the tender documentation is being prepared.

„I have a problem in finding a physical therapist for an occupant of the Home for the Elderly and Disabled at Dugo Selo, who has a valid remittance for the physical therapy at home approved by the CHIF. I was told at the CHIF office in Dugo Selo that in Zagreb they were familiar with the issue and that almost no home in this area could organise physical therapy at home because the health authorities were not willing to give concessions to and/or employ additional physical therapists."

The amendments to the Public Health Service Network provided an opportunity to emphasise growing needs for individual health care services. During public consultations, we suggested an increase in the number of contracted physical therapists at patient's home and the change in the standard stipulating one physical therapist for 15,000 insured persons as it no longer fits the demographic and health structure of the population. Nevertheless, their number increased by two only in just one county and in others the standard remained the same.

According to the National Programme for the Development of Palliative Care in the RC for the period 2017-2020, adopted in October 2017, 50% to 89% of all dying patients, that is 26,000 to 46,000 of them annually, require some of the palliative care forms. However, the Network plans to provide only 81 palliative beds in permanent care wards of health care centres, only one palliative care centre and 352 hospital beds, besides coordinators and mobile teams.

While 26,000 do 46,000 patients need one of the palliative care forms annually, the Network plans to provide only 81 palliative beds in permanent care wards of health care centres and only one palliative care centre and 352 hospital beds.

Such disproportion clearly shows that palliative patients lack adequate care and that the establishment of a corresponding system has been neglected in spite of that. Most recent amendments to the Network increased the number of palliative care coordinators on the primary health care level to 52 from 47 in accordance with the agreed standard of one coordinator for 100,000 inhabitants, while the number of mobile teams remained at 47.

Besides the coordinators, mobile palliative care teams play an important role as they offer physical, psychosocial and spiritual care 24 hours a day, provide support to patient's family members, deal with complex symptoms and patient's needs. Data showing 14 contracted coordinators and nine mobile palliative care teams of possible 52 or 47 demonstrate that contracting and enhancing these palliative capacities is also too slow.

The training of palliative team members is well organised in different medical institutions, but there is no training for patient's family members to whom palliative care is not available. Instead, they are left to their own resources and must deal with taking care of such patient with no systematic support. Besides being in a difficult situation, they are not entitled to take a paid time off from work for taking care of a sick adult family member, while the costs of such care, for which they often need help, are high. We discuss in more detail the need to regulate the status of a caretaker in the Strategy of the Social Welfare for the Elderly in the chapter on the social security of the elderly.

Following the aforementioned, it is necessary to facilitate the organisation of palliative care to prevent the slow functioning of the system from having negative impacts on patients and their family members.

,,Besides for the basic health insurance, I also regularly pay for the supplemental insurance each month. My gynaecologist gave me a "red" referral slip to do some blood tests. I was referred to the Community Health Centre in Dubrovnik because it is the only place where I can do a test for both hormones, on Mondays only. As I submitted the referral slip and did the blood test, they told me that I have to pay HRK 50.00 to cover the postage costs of sending the blood sample to Split for analyses. I had to sign that I agree with such costs. Some fifty patients who were waiting in the queue also had to pay such costs (100 kunas for Zagreb, and 50 for Split)."

Citizens also made complaints to the Ombudswoman about having to pay for postage costs for provided laboratory diagnostics services in primary health care, although there was no basis for it. Namely, if an insured person has to do some tests in the laboratory in their community health centre which the laboratory in question does not provide, biological samples are sent to the laboratory in another town/county for analyses. The insured person has to pay for the postage costs instead of the health care centre which referred them to do the test. Moreover, when taking biological samples, insured persons have to sign a statement saying that they agree to cover the postage costs, although unaware that they should not be charged for such costs.

The CHIF conducted a targeted inspection which confirmed such allegations so that an order was issued to health care centres to prevent such actions, and that citizens who paid the postage costs are entitled to reimbursement for the funds paid from the competent regional CHIF office.

Besides that, citizens also complained to the Ombudswoman about motions for enforcement that they received for allegedly unsettled invoices for medical examinations at the Zagreb Clinical Hospital Centre. The MH and the CHIF conducted a supervision and found that, when charging for medical examinations, the Zagreb CHC did not act in accordance with the Compulsory Health Insurance Act (CHIA) and did not issue invoices to patients right after the examination, nor check whether patients have the supplemental insurance. They also found that disputed invoices were mostly not sent to the patients' home address as the hospital claimed. Because of that, the CHIF reprimanded the Zagreb CHC. However, if we consider that invoices amounting to 25.00 kunas increased for several times during enforcement proceedings, this sanction turned out to be insignificant and produced no results as proved by complaints citizens made after the supervision, which showed that the hospital did not change its collection manner and that nobody checked the measures imposed after the inspection. The Ombudswoman also warned as to the illegal nature of such practice, which is discussed in more detail in the chapter on enforcements, but the hospital still claims that invoices and reminders were sent to patients' home addresses before initiating enforcement proceedings for many patients. After that, the MH requested a statement from the Zagreb CHC once again instead of ordering them to act in accordance with the CHIA.

The quality of interconnections between heath system stakeholders from the point of view of communication, information dissemination and availability are insufficient, especially when it comes to the rights of insured persons deriving from the compulsory and supplemental health insurance. Although the CHIF claims that all required contact data are available on its website, we received numerous inquiries on the rights deriving from the health insurance in 2017, because insured persons did not know to whom to turn to. Those who have no access to or who are not familiar with contacts provided by the CHIF, such as elderly persons, poorly educated persons and those with no access to the Internet, constitute a special category in this respect. The availability of data on the rights from the health insurance and the CHIF's openness to citizens should be of higher quality as the present mode of providing information fails to meet end users' needs for the most part.

A very important aspect of heath care availability is the right to medications, especially very expensive ones not listed in the CHIF's medication list. This problem mostly confronts patients suffering from rare and severe illnesses, who have to fight the system, which is inert and often unprepared for dealing with patients' problems, in order to exercise their right to medications. Although it is the approval holder who, as a rule, submits a proposal to put a medication on the CHIF's medication list, this can also be done, if there is justified need for it, by the CHIF's Medication Committee or hospitals' medication committees. However, judging by numerous patients' initiatives, aimed at informing the public about their problems and fighting for their right to medication in this way as well, the system is not making use of this possibility to the benefit of patients. In such cases, they are offered cheaper generic drugs which are often not so efficient. In this way, the system puts savings before human health.

Not even hospital budgets, considering their limited funds, provide citizens equal possibilities for therapy. Neither does the Expensive Medication Fund guarantee the availability of therapy for every patient as its budget has not been adjusted to prices of expensive medications and patients' needs.

„I completed secondary school of midwifery in 2004. and was conferred the occupational title as a midwife. At present, our Chamber insists on classifying us as assistant midwives. The problem lies in the fact that according to the Midwifery Act, assistant midwife should not assist at birth, which I have been doing for 14 years... suddenly, I am not permitted to do it. Even worse, when I inquired at the Chamber about my competencies, thy did not bother to reply. I am applying to you to help us in our efforts for the recognition of our status as midwifes with all the rights we had before Croatia's EU accession."

The MH launched an initiative to open an account into which physical and legal persons would make payments, as a way of financing expensive medications not listed on the CHIF's list. Unfortunately, the initiative failed because it was based on private donations rather than a stable and sustainable institutional framework. National Programme for Rare Diseases, too, envisages no special financing sources for expensive medications, which proves, that during its preparation, not all potential risks, that society may be exposed to due to impacts of socioeconomic and genetic factors and which may lead to serious diseases, for which no medications are available, have been taken into consideration.

Health professionals, too, turned to us for help, mostly general nurses and midwifes, as they encounter problems when exercising their rights before their professional associations. One of more serious problems was the recognition of the rights acquired by midwives who received their training before Croatia's accession to the EU pursuant to the legislation of the time and the education programme for their profession. Some of them lost a part of the rights they previously acquired based on their secondary school education because their professional association classified them as assistant midwives who, according to the latest Midwifery Act, cannot independently perform certain tasks within their job description, but which they performed beforehand. In the end, the Chamber met their demands by the end of 2017.

In 2017, the MH conducted an administrative inspection of the Chamber. As health professionals often complain about problems with their professional associations, ranging from qualifications acquired to attempts to charge fees to retired health professionals who are under no obligation to pay them, such inspections should take place more often. Although the MH claimed that they continually monitor the implementation of measures proposed and recommendations given based on inspections, complaints show that implementation monitoring has not always been carried out.

The quality of health care also dropped because many doctors and nurses went abroad. According to the data provided by the Croatian Medical Chamber, over 400 doctors left Croatia in the last four years, while 1,300 of them are preparing required documentation as they plan to do the same. Those who did not leave are overworked, which is reflected in the reduced quality of health services and deteriorating human relationships which might influence the relationship to patients as well. Since some 4,000 doctors will be retired in the years to come, the problems relating to the health care system and patient protection are on the increase.

RECOMMENDATIONS:

141. To the Ministry of Health, to adopt the Ordinance on the Medically Acceptable Time Period for Receiving Medical Services and to take other systematic measures for reducing waiting lists;
142. To the Ministry of Health, to ensure better absorption of funds from the EU funds for better availability and quality of health care;
143. To the Ministry of Health, the Croatian Health Insurance Fund and the Ministry of Demography, Family Affairs, the Youth and Social Welfare, to speed up the dynamics of establishing all forms of palliative care and to ensure adequate quality support to dying patients and members of their family;
144. To the Croatian Health Insurance Fund, to make information on the rights deriving from health insurance suitable for everybody, especially vulnerable groups;
145. To the Ministry of Health, to intensify their efforts to ensure the systematic financing of expensive medications;
146. To the Ministry of Health and the Croatian Health Insurance Fund, to ensure the inspection of the implementation of measures imposed after administrative supervision and inspections;

3.20. DISCRIMINATION IN THE AREA OF HEALTH

„In June 2016, my doctor referred me to an urgent MRI. I was scheduled for November 2017. I have a brain tumour and could not wait so long so that I went to a private practitioner, paid 2000 kunas and had an earlier MRI."

Source: 24 Newspapers

In order to meet its obligation to respect the right to health, the state is responsible for citizens' access to medical institutions free of discrimination. The equity and solidarity of the health system, as one of the fundamental human rights, constitutes a starting value guideline of the WHO Regional Office for Europe strategy called Health 21.

As the Ottawa Charter for Health Promotion states, prerequisites for health include adequate shelter, education, peace, quality food, stable income and social justice and equity in relation to health care availability. Since they depend on social group features and living conditions of each individual, the possibilities of health promotion diminish the more modest the indicators of the said parameters become. Therefore, a higher social status, which implies, as a rule, better education and working for a higher salary on easier jobs, most frequently prevents easier availability of health care and better health. Even in most developed countries, members of privileged classes are less sick and live several years longer than the poor. The same goes for the RC, where the average life expectancy of individuals with university background is three years longer than the one of less educated individuals.

According to the data of the European Public Health Alliance (hereinafter: PHA) as much as 80 million, that is 16%, of EU citizens living in poverty face, besides other problems, more difficult access to health care and it is states who are mostly responsible for that. Therefore, creating better living conditions for the neediest members of society, which includes more equity in relation to access to health services, is one of WHO's primary goals. When improving the health care system, one should consider constant social changes and factors, such as new, mostly non-contagious, diseases or the impact of health or disease on the prosperity of an individual or society.

The data from the Analytical Basis of the Progress Report on the Implementation of the Partnership Agreement between the RC and the European Commission show that the quality of health protection in the RC is facing ever growing challenges. The life expectancy in Croatia has been decreasing since 2015 and is, at present, three years shorter than the EU average, while healthy life expectancy is two years shorter. Furthermore, while EU data demonstrate more successful treatment and longer life expectancy of persons suffering from malignant or cardiovascular diseases, the mortality rate from malignant diseases in Croatia is one of the highest in Europe. As figures from annual primary health care reports show, a continual twenty-year decrease in the number of comprehensive medical exams, which are as a rule transferred to the private health sector and charged separately, contributed to such situation. For example, despite the Preventive Health Examination Programme, that has been implemented with certain changes since 2004, there were only 668 preventive examinations in Zagreb in the period between 2010 to 2016.

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Despite its huge costs, health should not be treated exclusively as an item on the expenditure side of the budget for which funds should be secured. The health system should follow the actual health needs of the population, taking into account the maximum efficiency of each kuna spent. As only healthy people can work, fulfil their obligations to society and participate in the generation of income and social progress, this is the only approach that is cost-effective in the long run. For these reasons, the application of a protocol according to which the treatment of multiple sclerosis begins only one year after the disease has been diagnosed is unacceptable as it disregards the fact that the progress of the disease has negative impacts on person's fitness for work and ability of independent living and contradicts scientific evidence that timely medical treatment of multiple sclerosis stops its progress.

Although new medications are introduced to the list all the time, according to the CPS report „Access to Health Care Services in Croatia", the health care system in Croatia does not follow world trends in medical treatment based on efficient medications of new generation sufficiently. The data found in the EC Overview of the State of Health and Health Care also indicates the foregoing, as it states that the RC ranks 8th in the EU with regard to the mortality rate that may be avoided by medical interventions. As the Regulations on Criteria for Putting Medications on the Basic and Supplementary List of Medications imposes no obligation on the party submitting the proposal to provide an explanation of the cost efficiency and possible benefits of the use of the medication in question, but are based exclusively on the budget impact analysis, the decision to put a medication on the list is independent of the relation between its price and efficiency. Nevertheless, available data show that costs of medical and pharmaceutical products in Croatia exceed the average spending in the EU.

Financing better, more efficient medications, as well as the timely availability of health care within the medically acceptable time period are possible, as a rule, only outside the compulsory and/or supplemental health insurance, which includes direct payments on part of patients to private practitioners, which, according to the said CMS report cover 17% of all health costs. The increased need for direct payments in the health care system endangers the availability of the system to the neediest groups such as the poor, unemployed, seriously ill with the lowered income and elderly (who often meet the criteria of both poverty and illness) which directly leads to inequality among the population depending on their income.

Long waiting lists result from the fact that medical institutions are poorly equipped with diagnostic devices. For example, 10 to 15 MRI machines in one million inhabitants, which places the RC once again at the bottom of the scale in the EU, is the reason why patients turn to private practitioners and why this service is more available to patients in larger cities who can afford it. Besides its negative impact on the most vulnerable groups, having to wait too long for a medical examination, tests or rehabilitation also results in more frequent and longer sick leaves which also generates additional costs.

Defining clinical guidelines/protocols for standardised medical treatment of the same quality of certain conditions may also exert influence on the better availability of medical services accompanied by lower costs. Although the law guarantees the right to health care to everyone,

without them service quality would differ from one institution to another, sometimes even within the same one.

We received a complaint from a female patient with hepatitis B about interference in her privacy and personal data protection leading to possible discrimination based on health condition. She was admitted to hospital because of some other health issue. However, her temperature sheet was displayed openly so that everyone could see her diagnosis of hepatitis B. The patient believes that this influenced the quality of health care she received and the way the hospital staff treated her. Although we requested from competent bodies their statement thereon in May 2017, we have not received it yet.

The equality of all stakeholders, patients and health professionals alike, is an essential prerequisite for the stability of public health system. A possibility of combining the private and public health sector leads to the stratification and inequality of patients and weakens the public health system and the position health professionals working in it. We have warned already about the unacceptable practice consisting in the dual work of doctors of medicine, which can be analysed from the points of view the conflict of interests and possible corruption. Additionally, besides being unacceptable, such engagement may also lead to a different social and economic status as well as the different status under the labour law between doctors of the same rank within the same health care institution, if it not made possible for everyone under the same conditions.

Furthermore, there are within the system, besides „private" practitioners (who directly charge for their services at market process, generate profit but also bear their operating costs themselves) and doctors employed in the public health sector (to whom the system provides the means and place of work, and pays them for their work) also contractual health professionals who, in principle, are engaged for the needs of the public health system, which provides them with patients and money for their services. Nevertheless, they are given a possibility of making their own rules. This may lead to uneven quality of health care services within the public health system as they may rent equipment and premises at lower prices and have lower operating costs.

The dual work of doctors of medicine is unacceptable and can be analysed from the points of view the conflict of interests and possible corruption. It may also lead to different social and economic status as well as the different status under the labour law between doctors of the same rank within the same institution.

The relationship between the employee and employer also influences health. More flexible labour laws, insecure forms of work, unattractive jobs lacking flexibility, lowering of safety-at-work standards, working overtime for a longer period, poor working conditions and, often, violation of legal regulations regulating days off, although bringing short-term benefit to the employer, result in overworked employees and have negative impacts on their health, lead to chronic diseases, earlier retirement and higher costs of medical treatment (long-term as a rule). Despite that, we still witness requests for additional weakening of the position of employees and for legislation changes to the benefit of employers, which has most negative impacts on poorly educated workers doing the hardest low-income jobs in the first place. Unemployment, too, has negative far-reaching impacts on health. According to the World Bank study on economic vulnerability and social wealth, unemployed persons in Croatia face a higher risk of poverty, especially those poorly educated

which, in the long run, increases the risk of unfavourable consequences for their health. Besides the lack of regular income which prevents them from leading a healthy life style, they are more likely to develop certain chronic diseases not so likely to be cured.

The uneven geographic distribution of the population also influences their inequality in relation to the access to health services. Most hospitals and health professionals are in Zagreb and its neighbouring area. According to the CPS report, the proportion of the population whose health-related needs have not been met due to too great distance from health care institutions is as much as seven times higher than the EU average. As a rule, doctors do not want to work in surgeries in rural areas or on the islands so that the local population there lacks adequate health care, which is often the case. Consequently, there are twice as much complaints about unfulfilled medical needs in rural than in urban areas, which we discuss in more detail in the chapter on uneven regional development. As the availability of doctors is of strategic importance, this issue should be considered more carefully when preparing measures for demographic renewal and the preservation of life in rural areas.

An analysis of complaints about discrimination in the health sector also revealed that a bureaucratic approach by competent authorities often leads to a denial of rights provided by the Health Care Act (HCA). For example, although immobility, limited mobility or the terminal stage of an illness indicate the need for health care to be provided at home, it is prescribed only rarely. We received a complaint of a family of a dying bedridden patient to whom the provision of health care at home was approved twice a week for half an hour only. The CHIF, who did not analyse medical arguments, made a statement saying that the patient was able to exercise her rights deriving from compulsory health insurance, which means that no right covered by the health care system was violated.

Last year, the CHIF, too, received complaints about possible discrimination when exercising rights deriving from compulsory health insurance based on religion, gender identity and sex. However, although the ADA prescribes that state bodies, LRGUs and legal persons with public authorities are under obligation to report any reasonable suspicion of discrimination to the Ombudsman or to specialised ombudsmen, we received no information about such complaints throughout the year.

Due to the lack of doctors, some of them were encouraged to act in an unprofessional or even discriminatory manner toward their patients. For example, we received a complaint about a general practitioner who refused to see a patient who was an addict receiving methadone maintenance treatment. Although his patient quota allowed him to have more patients, he, by saying that she was a problematic patient and by his refusal, deprived her of her legal right to choose a general practitioner. He was reprimanded for violating his contractual obligations, but, at the moment we are writing this report, he was still refusing to admit her as his patient and requested that „certain

We received a complaint about a general practitioner who refused to see a patient who was an addict receiving methadone maintenance treatment. By his refusal and explanation that she was a problematic patient, he deprived her of her right to choose a general practitioner although his quota allowed him to have more patients. Even after a reprimand, he was still refusing to admit her and requested that „certain disciplinary measures“ be pronounced on her as a difficult patient.

disciplinary measures" be pronounced on her as a difficult patient. The last case of the improper conduct of a physician, which received much media coverage, is the one of the orthopaedist in the Dubrava Clinical Hospital Centre, and we expect to see its epilogue during this year.

Although the CHIF has, within its Central Health Information System of the RC, personal data as well as data on the status of insured persons under labour law and of their occupations, neither this year do we have access to data on the work-related status, educational background and age of 567 insured persons sent to be treated abroad with funds from compulsory insurance.

The Vrapčić Association for the Improvement of Mental Health informed about discrimination of persons with mental disorders who are, because of their health condition, victims of many stereotypes, humiliation and belittling. As this negative attitude towards them is deeply rooted, persons with mental disorders often spend their whole life on the margins of society, deserted from their families and without sufficient social support and a possibility of inclusion in social activities.

The long-term health care system lays within the competence of different health care and social institutions. Such fragmentation and divisions lead to insufficient information on available services which, again, leads to failures at the expense of patients. Inadequate palliative care poses a special problem, which is discussed in more detail in the foregoing chapter.

RECOMMENDATIONS:

147. To the Ministry of Health, to support the adoption and implementation of required clinical guidelines in cooperation with professional associations of the Croatian Medical Association;
148. To the Ministry of Health, to additionally strengthen public health elements in the forthcoming reform of the health care system;
149. To the Ministry of Health, to react quickly and efficiently to the improper conduct on part of doctors of medicine, taking into account professional standards and the protection of legal rights and patients' dignity;

3.21. EDUCATION

"... We have completed our studies and complied with all our commitments, and now we totally feel like we were taken for a ride... I cannot work in the profession I was educated for because the system does not recognise us... How is it possible that after graduation from an approved faculty there is no record of us in the health system at all?"

The European Pillar of Social Rights states that everyone has the right to quality and inclusive education, training and lifelong learning and the EC Report *"Education and Training Monitor 2017"*, highlights that adult learning is the weakest link in the Croatian education system. The share of adults participating in lifelong learning is particularly low at only 3%, significantly lower than the EU average (10.8%). Therefore, the EC has issued a recommendation to the RC on the need to improve adult education within the EU semester 2017, especially of the older,

low-skilled and long-term unemployed workers; however, from the 2018 EC report for the RC it follows that this recommendation has not been fully implemented. The draft proposal of the Adult Education Act was created in mid-2016, but the process was put on hold due to the changes within the MSE and it was not included in the 2017 Normative Action Plan, thus delaying passing of the implementing acts.

Non-formal education programs have been implemented for a long time now in the RC, predominantly by CSOs; however, the legal framework for the recognition of these educational programs and their implementation through the formal education system is still missing, even if they have an immense significance because they also provide training in democracy and human rights and strengthen critical awareness and civic activism. By adoption of the Croatian Qualifications Framework Act, legal preconditions for the regulation of lifelong learning have been created; however, the Ordinance on Recognition and Valuation of Non-formal and Informal Learning has not yet been adopted.

The Health Care Activity Act, as well as other legislation and subordinate legislation do not recognise the master's degree in medical laboratory diagnostics, so the holders of the degree cannot work in the healthcare system consistent with their education and, subsequently, cannot attend vocational training programs or take a professional ability exam.

A large number of citizens who completed the studies of medical-laboratory diagnostics applied to the Ombudswoman because, due to legal incompliances, they were prevented from serving their internships and taking an examination of professional ability. Namely, the educational degree of the Master of Medical Laboratory Diagnostics is not recognised either by the Health Care Activity Act, or by other legislation and subordinate legislation, where only the bachelor's degree is mentioned, because the legislation was adopted prior to the introduction of this study program into the Croatian educational system. Therefore, holders of the master's degree in medical-laboratory diagnostics cannot work in the healthcare system at the attained level of education, and subsequently, they have no access to professional training and cannot take a professional exam. Legal gaps and legal disparities also exist at the level of bachelors of medical-laboratory diagnostics, who serve their internships according to the MH program for health an laboratory technicians from 1994, as the new plan and program have not yet been adopted. Thus, holders of the bachelor's degree are recognised only the secondary level of education when serving their internships and taking professional examinations, which prevents them from consuming active employment policy measures of the CES.

During 2017, we registered a decline in the number of complaints relating to the recognition of foreign higher education qualifications; however, citizens still lodged complaints about the procedure for recognition of supplementary education attained abroad. Specifically, during the implementation of the procedure of recognition of foreign higher education qualifications in the field of psychology and pedagogy, the MSE recognised the foreign higher education qualification but refused to recognise the supplementary education, with the explanation that there is no competent body in the RC for the recognition of supplementary pedagogical education attained abroad. As a follow up to the recommendation issued by the Ombudswoman, the MSE reversed the negative decision and recognised the supplementary educational qualification from the realm of pedagogical-psychological-didactic-methodical competences.

The long-term goal of the European Quality Charter for Mobility for all young people in the EU is to spend time in another European country. In the area of higher education, the Charter recommends to the member states to enable each higher education student to spend a part of their studies abroad through a study exchange, training program or work placement. Also, one of the goals of the Bologna process is that by 2020, 20% of all European students spend a certain period of time studying abroad. However, numerous obstacles in the Croatian higher education system delay these goals and prevent students from using the Erasmus+ program, especially in the tax treatment of financial grants. Erasmus+ financial grant is non-taxable for a student as the final beneficiary. However, the incoming payment received by the students on their giro accounts is at the same time treated as his/her receipt/income, thus undergoing the total income, based on which it is determined whether a natural person may be considered a dependent and treated as a tax deduction to their parents or guardians. Pursuant to the Income Tax Act and the Income Tax Ordinance, a parent of a student who earns an annual income of more than HRK 15,000.00 cannot be a beneficiary of an increased personal tax deduction. According to the Agency for Mobility and EU Programs, these limitations are a key factor affecting the student's decision to sign up for this program. Universities have also noted a decline in interest and frequent cases of withdrawal of selected students after they get informed on the tax treatment. For example, in 2014, the University of Split had 240 students who applied, while in 2017 there were only 172. Thus, it is necessary to change the existing tax treatment of Erasmus+ grants and they should be listed as receipts that are not taken into account when determining the right to personal deduction, irrespective of the amount of grant paid, as is the case, for example, with social aid.

No significant progress was made in 2017 in regard to the Strategy of Education, Science and Technology, as well as the curricular reform. Problems in forming operational bodies subsequently slowed down the process of drafting the implementing documents. In July 2017, the Special Expert Committee (SEC) submitted to the Government of the RC an action plan that contained a series of irregularities and substantial incompliances with the goals defined by the Strategy. As a result, it was not accepted and was sent back for revision. The SEC submitted the revised action plan in September, after which the SEC was dissolved by the Government's decision, and only in mid-December was the new SEC formed and put in charge of implementing and coordinating strategies and activities in the area of education and science. Because of all these obstacles, the education reform has been delayed and in the 2017 EC Report on RC, the EC issued a recommendation urging for its acceleration. Although in the second part of 2017 the MSE accelerated the implementation of the curricular reform and produced curricular documents for individual courses, the performance was sporadic and without premeditated approach, which is the reason why a part of the public got the impression that certain areas (e.g. STEM as compared to human sciences) are being favoured. The 2018 EC report for the RC highlights the need to ensure a full implementation of the reform and its compliance with other measures from the Strategy, so its implementation requires an integrated approach.

In the context of university autonomy, it is important to take into account the existence of public responsibility, which entails transparent conduct of university bodies that have to act within the legal framework, and the decisions they make must be subject to legally stipulated supervision.

During 2017, the University of Zagreb filed a constitutional complaint to determine the constitutionality of the provisions of Article 113 of the Act on Scientific Activity and Higher Education (ASAHE) relating to administrative supervision of the legality of work and of the general acts of higher education institutions, also requesting an assessment of the constitutionality of Article 17 of the Act on Organisation and Competencies of the Ministries and other central state administration bodies, which pertains to performing administrative affairs within the ministries and conducting administrative supervision of higher education institutions. University autonomy is stipulated by the Constitution and the ASAHE, and according to the European University Association, they must be autonomous in their research and teaching capacities and, in that sense, be excluded from the interference of state bodies in their work. The same principle is proclaimed by the Magna Charta of the European Universities (Bologna, 1988), which stresses that freedom of research and teaching is the underlying principle of university life, therefore the states and the universities must ensure compliance with this fundamental requirement. Reviewing constitutionality of the Higher Education Act, the Constitutional Court stressed in the Decision UI-902/1999, that the academic self-government of the university is reflected in the freedom of scientific, artistic and technological research and creativity, as well as in designing educational, scientific, artistic and professional programs, in selecting the teachers and top officials, taking decisions on student enrolment criteria and on internal organisation, but the autonomy must have its limits through the supervision of those on whom the university depends – the founders, the supporters and the bodies giving expert supervision. In the context of university autonomy, it is important to take into account the existence of the responsibility that obliges the university bodies to transparent conduct. Universities must act within the law, and the decisions they make must be subject to supervision, as defined by law. Thus, it is indisputable that they must have a high level of autonomy, but it primarily relates to independent scientific and educational activities, while in democratic societies the absolute autonomy of any institution and the creation of a system that would be exempt from any kind of supervision is incompatible with the principles of the rule of law.

RECOMMENDATIONS:

150. To the Ministry of Science and Education, to draft a proposal of the Adult Education Act;
151. To the Ministry of Science and Education, to issue the Ordinance on Recognition and Valuation of Non-formal and Informal Learning;
152. To the Ministry of Health, to draft a proposal of required modifications to the Health Care Activities Act;
153. To the Ministry of Finance, to draft a proposal of required modifications to the Income Tax Act and to outline the Income Tax Ordinance in order to include Erasmus+ grants in the category of income that is not taken into account when determining the right to personal deduction, irrespective of the amount of the grant paid;
154. To the Government of the RC and the Ministry of Science and Education, to accelerate the implementation of educational and curricular reform in compliance with the Strategy of Education, Science and Technology;

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

Viewed from the perspective of discrimination, education can both be its basis and the field where it occurs. Any differentiation, exclusion, restriction or giving of an advantage based on the grounds laid down in the ADA, jeopardising the right to equality in education, represents discrimination. On the other hand, the level and the type of education are also a common cause of unequal treatment of an individual in various areas of social life. Early school dropouts, lack of competences, uncompetitive skills and lack of social support can lead to multiple discrimination in many areas of social life, such as labour and employment, social security, health care, access to goods and services and the participation in cultural life or creative work.

Early school dropouts, lack of competences, uncompetitive skills and lack of social support can lead to multiple discrimination in many areas of social life, such as labour and employment, social security, health care, access to goods and services and the participation in cultural life or creative work.

In the RC, coming to a decision on the type of education occurs relatively early. At the age of 14, students already have to decide on pursuing either vocational or general education, and 71.1% of them go for vocational education, which is close to the topmost in the EU, where 48.9% of the students decide to go for this type of education. However, due to the low level of skills they acquire, less than half of them get an employment in the field they were trained for, so the rate of employment of people with secondary vocational school in the RC is among the lowest in the EU.

The total number of students in the RC is permanently on the rise; however, the type of the studies they enrol in depends on the type of their secondary school, so the share of grammar school (*gimnazija*) school students who pursue university studies is 65%, while only 32% of university students have completed vocational education. The situation with professional studies is reverse, so that over 70% of students have completed a vocational high school. Unfortunately, 41% of all students drop out over time, which arouses a suspicion that a part of them enrols without a genuine intention of completing the studies, inter alia because of the inability to enter the labour market or possibly because of the student rights.

According to the National Research Report for the RC, EUROSTUDENT, 66% of part-time students have previously completed a vocational school, and they have largely pursued their education at professional studies. Although the social status of their families is mostly low, according to their own estimates, as part-time students they are not eligible for tuition subsidies, or entitled to a secured student accommodation and transportation. Therefore, the financial obstacles to continuing their education need to be removed through allocation of adequate and obtainable subsidies.

When acting upon complaints about employment tenders within the higher education system, containing specific job requirements that are not laid down in the acts of the higher education institutions, we have recurrently pointed to the problems and inconsistencies with hiring in the higher education system. According to the response provided by the MSE, the setting of special job requirements through general acts represents an option, but not the obligation for higher education institutions. However, if specific requirements for an appointment to certain functions are not laid down anywhere, the job opening may contain only the general requirements, as laid down either in

the ASAHE, or by the National Council for Science, Higher Education and Technological Development (NCSHETD) and the Rector's Conference. For years now, we have been recommending that administrative supervision is required at one of the faculties because of fictional requirements in their tenders for jobs in the higher education system, but it has not been given so far. Moreover, due to an extremely broad interpretation of the institute of university autonomy, the Constitutional Court has in the meantime received a request to abolish the provision defining administrative supervision over the university and its components, as we detailed in the previous chapter.

For years now, we have been recommending that administrative supervision is required at one of the faculties because of fictional requirements in their tenders for jobs in the higher education system, but it has not been given so far. Moreover, due to an extremely broad interpretation of the institute of university autonomy, the Constitutional Court has in the meantime received a request to abolish the provision defining administrative supervision over the university and its components.

Although the harmonisation of study programs in the RC with the Bologna principles of higher education has been formally implemented, the binary system as established by the ASAHE is yet to take hold and there is still an unclear distinction between the academic and vocational education. In line with comparable European Qualifications Frameworks, where professional and university studies are placed at the same level, the ASAHE differentiates between them solely based on the learning outcomes and the type of knowledge and skills. Nevertheless, according to the results of the survey on students' satisfaction with the study programs and their preparedness for the labour market, professional studies are in practice perceived as a lesser-quality imitation of university studies, having lower criteria and a poorer academic reputation. Such a perception significantly reduces the prospects for employment and even in professional jobs for which the requirements are laid down by law, professional studies are still not adequately recognised as an acceptable type of education.

Unlike most of the countries in which the Bologna process has taken hold, the graduates from the specialist professional studies in the RC obtain the specific name of a specialist, which makes their level and type of education, as well as attained qualifications, unrecognised in the European labour market.

Bachelors also fail to receive an adequate recognition as highly educated experts at the labour market. In the opinion of the Higher Education Agency (HEA), based on the a level of qualification and attained competences, bachelor graduates should be apt for a whole range of jobs and ready to swiftly join work processes. However, in practice, the undergraduate studies are considered an interim stage of the higher education, so that most of them, for whom there is usually no place in the labour market anyway, decide to pursue a graduate education. In order to change this, it would require further informing the public about the competences they have acquired upon completion of the undergraduate studies, for which, as the HEA points out, a support and a strong initiative of the education and labour systems is required.

Although the deadline for adopting an ordinance on the appropriate type of education for elementary school teachers, teachers and associates has expired in 2009, on which we have been reporting for years, this has not been done yet. Therefore, the question of recruiting graduates from the Croatian Studies of the University of Zagreb in elementary schools remains unresolved.

Active promotion of student mobility is also one of the key settings of the Bologna Higher Education System. However, Croatian specifics, such as integrated studies that prevent both internal and international mobility, bring Croatian students into an uneven position in an integrated EU education realm and reduce the competitiveness of Croatian universities. Nevertheless, in view of the increased interest of higher education institutions in the integration of the first and the second level of higher education, the MES considers that the integrated studies, although a kind of exemption from the usual practice, are not in conflict with the application of the Bologna system.

The Erasmus+ program is a major factor in the active promotion of student mobility. In the course of 30 years of its existence, it has enabled studying, training, teaching or volunteering in another country for nine million people. Unfortunately, as many as 10% of the Croatian students participating in it could not validate the time spent abroad: the obtained ECTS credits were not recognised for as many as 45% of the users, while 4% more stated that their ECTS credits were not going to be recognised, and in the integrated studies even 11% of them stated the same. This shows that institutions place a great emphasis on their own program, which actually discourages students from European mobility programs.

Unfortunately, as many as 10% of the Croatian students participating in the Erasmus+ program could not have validated the time spent abroad, the obtained ECTS credits were not recognised for as many as 45% of those enrolled, while 4% stated that their ECTS credits are not being recognised, and in integrated studies, even 11%.

Socially useful learning, closely related to modern education trends that emphasise the importance of critical thinking and practical experience in education, has also failed to take hold in the Croatian education system. According to "Determinants of Student Interest for Socially Useful Learning"[11], a large number of Croatian students have not even heard of such a form of learning because the classes continue to be based on lectures given by professors. If it does not encourage students to research, to creative thinking and problem solving, to critical reflection and expressing of opinions, to changing attitudes and linking theory to practice, the higher education system produces workers who are less competitive, who are generally not trained for leadership or project management jobs, which also has an impact on the international competitiveness of Croatian universities.

The status of postgraduate or doctoral students is another cause of possible controversy. In the HEA conclusions from the "Analysis of the Five-year Re-accreditation Cycle in the Higher Education Institutions 2010-2015", published in 2017, it is stated that there are more than 50% of full-time students at the third, doctoral level of study. Contrary to this, but also contrary to the fact that an employment status is not a condition for enrolment in postgraduate studies, the MSE considers all postgraduate students as part-time students, with the argument that postgraduate studies do not base on full-time teaching, but students attend them in addition to work or some other activity.

[11] Koraljka Modić Stanke i Vanje Putarek: „Odrednice interesa studenata za društveno korisno učenje", Odsjek za psihologiju Filozofskog fakulteta Sveučilišta u Zagrebu

Such an interpretation puts postgraduate students who are unemployed in an unequal position, since there is no ground for them to claim their social rights, such as health insurance benefits on the ground of full-time studying.

From the perspective of discrimination on the grounds of education, it is also plausible to reflect on the increasing degree of digitisation of numerous services, although 27.9% of persons in the RC do not possess digital skills. This makes the entire range of services unavailable to lower-educated and low-income people. For example, a form by the CES "Vacancy Search Scheme", obliges unemployed persons to hand-sign the form, committing themselves that they would search for vacancies on the Labour Exchange website (*Burza rada*). Although such a requirement is beyond reach for non-educated and poor unemployed persons who cannot use the computer and have no access to the internet, and who sometimes do not even have an electricity connection, the failure to fulfil that obligation has resulted in the deletion of a person from the CES register. After a warning about the discriminatory effect of that practice, the disputed obligation has been removed from the form.

The problem of unequal pay for the work of equal value also points to discrimination on the grounds of education, and such a complaint was lodged by the employees of several county public health institutes, where the work of non-medical staff, employed in the same laboratory on the jobs with alike terms of reference as the health-care workers, was evaluated to a lower coefficients of complexity. Since unjustified differences in the evaluation of equal work, due to differences in the type of education, constitute discrimination on the grounds of education, unless they have a legitimate justification, we requested the MH to undertake the competency procedures as far back as 2014, as well as to provide an explanation of the disputed difference in salary, but we have not received it yet.

Furthermore, discrimination may sometimes result from an arbitrary and mechanical interpretation of regulations. For example, although the FA stipulates that a foreigner with a permanent residence in the RC has, inter alia, the right to education and student scholarships, the application for e-enrolment has not recognised the category of an alien with permanent residence, so a female complainant was instructed to enrol as a foreign national with payment. Even though the application was subsequently upgraded, the faculties did not allow her the entry outside of an alien quota. After the Ombudswoman's announcement, the MSE directed all higher education institutions that alien citizens with permanent residence are eligible for higher education under the same conditions as the Croatian citizens. However, shortly thereafter, the MSE themselves established that another alien student with permanent residence did not have the same student rights as Croatian citizens.

We also received a complaint lodged by the Croatian Chamber of Social Workers (CCSW) about the unacceptable and discriminatory interpretation of the Social Work Practice Act (SWPA), through which holders of the master's degree, who have not also completed their undergraduate studies in the field of social work were prevented from becoming compulsory members of the Chamber. Since the SWPA guarantees the right to social work practice to all holders of the MA degree in social work and social policies, as well as to holders of the university bachelor's degree in social work, such an interpretation has deprived them of the compulsory membership in the CCSW, on the grounds of their undergraduate qualifications, thus putting them in an unfavourable position in a comparable

situation and infringing their legally guaranteed rights, which represents discrimination on the grounds of education.

We continue to receive the complaints expressing suspicion that the structure of employees is being changed through misapplication of professional requirements and based on the political and other affiliations of the employees. Since there is no control of the purposefulness of the ordinance, the changing of professional requirements for a job or other requirements is also being used to remove the unwanted or unsuitable workers on the one hand, and to favour the suitable ones, on the other.

Disparity between certain systems also leads to discrimination on the grounds of education, as in the case of the study of medical laboratory diagnostics, which was approved and began to operate in the academic year 2013/2014 at the Faculty of Medicine in Osijek. However, masters of medical and laboratory diagnostics are not mentioned in the Healthcare Activities Act, which poses an obstacle to their professional training and licensing, as elaborated in detail in the previous chapter. The situation is similar with masters of nursing because, as stated in the complaint, the vocation of MA of nursing does not exist in the Croatian Health Institute System, and those unemployed are thus registered as senior medical technicians/nurses, which is incorrect and puts them in a difficult situation regarding employment or when joining in the employment promotion measures programs.

In recent years, the Ombudswoman has cautioned of possible manipulative nature of the amendments to the Ordinance on Internal Work, which rule that following the changes in the organisation of the body, the in-house civil servants be deployed to new, often lower paid work posts, due to their education. However, we continue to receive complaints expressing suspicion that the structure of employees is being changed through misapplication of professional requirements and based on the political or other affiliations of the employees. Since there is no control of the purposefulness of the Ordinance, the changing of professional or other requirements for a job is also being used to remove the unwanted or unsuitable workers on the one hand, and to favour the suitable ones, on the other. For example, we received a complaint stating that the State Geodetic Administration had changed the professional requirements for the position of an licensed cadastral clerk, which could previously be performed by other technical persons as well, but after the adoption of the new Ordinance, they can no longer do so. Since in its response the SGA did not present a legitimate aim, which would justify such changes as appropriate and necessary, this fuels reasonable suspicion of discrimination on the basis of education and / or favouring certain interests.

RECOMMENDATIONS:

155. To the Ministry of Science and Education, to issue the Ordinance on the appropriate type of education of elementary school teachers, teachers, educators and professional associates in school institutions;
156. To the Ministry of Science and Education, the Agency for Mobility and EU Programs and to the Universities, to ensure that ECTS credits acquired during the use of the ERASMUS+ Program are recognised to students;

3.23. DISCRIMINATION ON THE GROUNDS OF RELIGION AND THE FREEDOM OF RELIGIOUS DENOMINATION

Discrimination on the grounds of religion manifests itself through unfavourable treatment of people due to their religious affiliation, expression of their religious convictions, or even a non-religious worldview. In addition to being protected against discrimination, religion represents the essence of one of the fundamental human rights: the freedom of conscience and of religious denomination, which is recognised by numerous international human rights documents and constitutes one of the freedoms stipulated by the Constitution. Therefore, the issues of protection of freedom of religious denomination are closely related to issues arising from the field of equal treatment, regardless of a religious conviction.

In addition, the freedom of religious denomination has its own specific characteristics in relation to other human rights and freedoms because of intimate contemplative and emotional components, characterising personal beliefs and vulnerabilities that an individual is exposed to when expressing these beliefs and worshiping religious customs in the public. This is certainly one of the reasons why individuals, who consider that they have been discriminated against on the grounds of religion, are reluctant to talk about it. Namely, having in mind the number and the contents of the complaints that the citizens have lodged to us pointing to the discrimination of their religious (non) affiliation, and bringing these allegations in connection with the current developments in the society, with the religious contents and discussions in the media, as well as numerous social issues that are, at least indirectly, connected with the religion and religious communities, we can conclude that there is a certain disproportion. In other words, various religious-related topics are often in the public focus, while, on the other hand, they appear to be much less problematic in the citizens' complaints. It tells us that many people perceive religion primarily as an intimate issue, rather than a polygon for other kinds of debates or as a tool in initiating institutional processes.

When giving approval for gatherings organised on the hospital ground, all the circumstances of the request for the implementation of such an initiative should be considered extremely carefully, bearing in mind that the legislator has imposed this restriction in recognition of the hospitals as the places where the right to public gathering may rightly be subject to restriction.

However, the topic of the appropriateness of certain specific contents in the public domain stands out among the citizens' complaints received in 2017 and was also reported in the media.

We already reported on the exposure to religious contents in previous years, specifically with regard to their pertinence in the institutions exercising public authority or providing public services. During 2017, citizens questioned the appropriateness and permissibility of the activities by prayer groups, which were observed in hospitals during visits to the patients, and those who applied to us were particularly disturbed, since visitors have to leave the hospital after the expiration of the visit without exception, while members of prayer groups stayed there the whole day. The most prominent group of that kind launched a number of campaigns, during which it organised public gatherings and prayers, predominantly favouring the protection of the right to life, including the initiative to stop

the interruption of pregnancy on demand. This is one aspect of public expression of freedom of religion, as well as the right to public gathering. However, there is a question of the pertinence of such initiatives on the hospital ground, bearing in mind that patients and their families also enjoy the freedom of religion and that the patients have the right to unhindered access to health care, which also includes the protection of privacy. In addition, we should bear in mind that, under the Public Assembly Act, a peaceful gathering should not be held near hospitals in such a way that it hinders access to emergency vehicles or disturbs the peace of the patients. Therefore, when giving approval for gatherings organised on the hospital ground, all the circumstances of the request for the implementation of such an initiative should be considered extremely carefully, bearing in mind that the legislator has imposed this restriction in recognition of the hospitals as the places where the right to public gathering may rightly be subject to restriction. If the goal of a concrete gathering can be achieved outside the space of the healthcare institution, one should carefully consider whether citizens could publicly promote their religious or other beliefs at another appropriate location.

We also noted a case where strangers entered the hospital room and prayed without the patient's agreement, for which they had no approval from the hospital or consent of the patient. Unlike previous cases, here we are dealing with a clear violation of religious freedom, as well as invasion of the patient's privacy. By doing so, the unauthorised persons ignored the right and viewpoints of an individual to freely make a decision about (non) participation in a religious act in accordance with their religious and philosophical beliefs. As regards prayer initiatives in the spaces of health institutions, we recommended the MH to instruct the hospitals: when giving approval for public gatherings, they should bear in mind the legal restrictions of the possibility of organising public gatherings in hospital spaces, for the sake of provision of the peace to the patients; and they should also bear in mind the possibility of achieving the purpose of the gathering at another appropriate location.

Citizens largely nurture intimate religious beliefs, practicing religious customs and rituals in private, to a lesser extent attending religious ceremonies, and the prevailing view is that religious issues need to be separated from institutional issues.

Data from a US research centre in the field of human sciences (Pew Research Centre) on national and religious identity obtained from a survey conducted in Central and Eastern Europe in the course of 2015 and 2016, and published in May 2017, show that more than 93% of the citizens of the RC consider themselves believers, of which 84% are Catholics. Asked whether they associate their religion or religious identity with their personal, family, national or other values, and they could give more than one answer, 34% of the respondents answered that their religious identity is exclusively a matter of personal faith, 36% associate it with the family tradition and national culture, and 29% believe that the religious identity is a question of all three elements combined together, that is of personal faith, family tradition and national culture. Accordingly, they more often practice the religious rituals in private: 24% of the respondents go to church once a week, as much as 43% go monthly or annually, and 32% rarely or never; however, 44% pray every day and 72% of them fast, mainly for the Lent.

Although the prevailing view on the role of religious institutions in the society is positive, reflecting in the strengthening of morality in the society (45%) and in linking people and strengthening social relations (51%), still, 69% of the respondents maintain that they are overly focused on power and

money, and as much as 72% think that religious institutions are too deeply involved in political issues. In addition, only 27% of the respondents believe that state policies should support the spreading of religious beliefs and values, and even though most of the respondents consider themselves believers, only 40% maintain that churches should receive financial support from the state.

It follows from these results that citizens largely nurture intimate religious beliefs, practicing religious traditions and rituals in private, to a lesser extent attending religious ceremonies; however, secularism prevails, that is, the view that religious and institutional issues need to be separated and that religious organisations and political structures should not have any significant influence on each other.

Members of many religious communities in the RC face the issue of days off during the week when exercising their right to stop working during religious holidays and feasts, and it is obvious that there is a need for amendments of the Holidays, Memorial Days and Non-Working Days Act for the sake of its clarity, but also in order for all the religious traditions to be able to mark their anniversaries, religious holidays or other days of particular religious or historical significance in an appropriate way.

Religious feelings of individual citizens were hurt by a theatrical performance in which the character symbolising Jesus Christ engages in a sexual intercourse with a woman wearing a hijab. The performance problematises the Western economic-political system and questions the morality of closing the borders of the European states for immigrants from the Middle Eastern countries, using the scenes of violence, decadence and other forms of exaggeration. We believe that many consider such a discourse to be vulgar or inadequate, and by resorting to it, the theatre director provokes fierce reactions, which is probably the goal of such a style of artistic expression. On the one hand, here is a need to protect the intimate religious feelings of the people who feel that provocative scenes with religious elements are unacceptable, while on the other hand, there is the need to protect artistic expression, which is one of the important elements of the freedom of speech, i.e. expression. We fully acknowledge that believers may feel hurt by usage of religious symbolism in a provocative artistic context and that there are certainly many other productive ways of discussing political issues and the relationship to migrants in Europe. However, at the same time, we consider that diversity in attitudes needs to be respected, and the tolerance in a dialogue implies the acceptance of other attitudes, even when they are completely inconsistent with our own. This is in line with the practice of the ECtHR, as well as with the EC Resolutions and recommendations, which state that the freedom of opinion, conscience and religious denomination in a democratic society must allow for an open debate about faith and related subjects. It does not imply protection from questioning and criticising religion, and therefore, in a modern democratic society, individuals should tolerate allegations that are contrary to their religious beliefs. Freedom of speech and expression also applies to ideas and information that may potentially be offensive, shocking or disturbing, while critical discussion, satire, humour and artistic expression enjoy a wide degree of freedom of speech.

At the same time, informative texts need to convey correctly any information about faith and religious communities, in order to avoid stirring up prejudices. For example, the authors of two newspaper articles used the terms such as sects and cults, characterising some religious

communities as critical due to a number of alleged lawsuits, while the religious communities mentioned as an example are registered and act in accordance with positive regulations, and the authors also failed to clarify the difference between religious communities and sects and cults. Given that we are not dealing with satire here, or with the expression of a personal attitude or the artistic expression, but we are dealing with informative texts, this practice contributes to the developing of intolerance towards certain religious groups.

We have already written about the lack of knowledge and a misunderstanding of the religion of some minority religious communities in previous years, and the topics dedicated to them are scarcely appearing in the media. For example, a religious community has drawn our attention to the fact that neither the main information programs, nor the newspapers, portals, and radio shows, reported on the marking of 500 years of Reformation, although many religious communities participated in it. Bearing in mind that the topics relating to minority religious communities are seldom in the public focus, and that citizens are usually not familiar with minority confessions, this only increases the responsibility for an accurate reporting of verified information on them.

In the 2015 Ombudswoman's report, we mentioned the integration of Muslims into society and the absence of a negative impact of Islamophobia in Europe on the Islamic Community in the RC, as well as an isolated incident involving a young Franciscan monk, who published the content on the internet in which he spoke very negatively about Islam, because of which we requested action from the competent state attorney's office and a statement by the Croatian Bishops' Conference. Due to an inappropriate discourse we pointed to, a final conviction was passed for committing the violation of Article 25 (1) of the ADA, i.e. because of the violation of dignity (harassment) on the grounds of difference in religion.

Difficulties experienced by members of the Jehovah's Witnesses religious community when exercising their right to healthcare have still not been systematically resolved. Namely, they report that in 2017, 24 further cases of denial of healthcare protection to their congregation members occurred in Croatian hospitals, mainly dealing with orthopaedic operations. 15 out of that number received an adequate health care in another hospital in the RC. Out of the remaining patients, solution has not been found yet for five of them, even though they have medical indications. We have already written about the legal background of this case in the previous years, and the latest information on the denial of health services to Jehovah's Witnesses make it clear that this problem has not been completely solved.

Even if the members of the Jewish religious community have in recent years reported solely on individual incidents, they have now noted that on various portals, in comments under articles, the Jews are constantly blamed for allegedly undermining democracy, freedom and the financial institutions and are held responsible for alleged international "conspiracies". The most serious cause for concern is the phrase calling for the "completion of what was started" during the Second World War or the comments that all Jews should move to "their" land. In addition to such comments, the inappropriate posts on social networks upon the death of their prominent member, Slavko Goldstein, gave a particularly hard blow to this community.

Members of many religious communities in the RC face the issue of days off during the week when exercising their right to stop working during religious holidays and feasts. Regarding days off during

the week, some Adventists encounter challenges when negotiating with their employers about rescheduling their working hours and days in order to have Saturday free of work, and further discussions have also been generated on the need to modify the regulation on the work on Sundays. In addition to inquiries concerning weekly festivities, we also received individual inquiries from the people of Islamic religion about their right not to work in the days of the Ramadan Bairam and Kurban Bairam. Namely, the Holidays, Memorial Days and Non-Working Days Act stipulates that citizens who celebrate Christmas on January 7 are entitled not to work on that day, as well as people of Islamic religious affiliation in the days of Ramadan Bairam and Kurban Bairam, and of Jewish religion in the days of Rosh Hashana and Yom Kippur. However, given that each of these Islamic holidays lasts for several days, from the expression of the legal provision, where plural is used ("in days") when referring to the holidays of members of the Islamic religion, it is not clear whether plural is used because of the listing of more holidays or if plural covers all the days of the duration of both holidays. Although the Ministry of Labour and Pension System interprets that the quoted provision allows Muslims not to work one day on each of the holidays, the linguistic structure of the legal expression is not sufficiently precise. Moreover, the religious community of the Churches of Christ in Croatia pointed out to us that the Reformation Day, on October 31, should be a memorial day for Protestants and the congregation of the churches of reformist tradition. Consequently, there is obviously a need to amend the Act on Holidays, Memorial Days, and Non-Working Days, for the sake of clarity, but also for the sake of a possible revision of the memorial days' list, in order for all the religious traditions to be able to mark their anniversaries, religious holidays or other days of particular religious or historical significance in an appropriate way.

RECOMMENDATIONS:

157. To the Ministry of Labour and Pension System, to draft the necessary modifications to the Holidays, Memorial Days and Non-Working Days Act in the RC, and to ensure that the rights of members of religious communities were clearly regulated and to observe the need of marking anniversaries of particular significance for some religious traditions;
158. To the Ministry of Health and to the Ministry of Labour and Pension System, to improve the legal framework on conscientious objection of health workers in order to provide adequate health care to patients in accordance with their religious convictions and the highest professional standards;

3.24. PUBLIC DISCOURSE

"I thought that, over time, the name calling and blog attacks would stop, but they have continued and they call me names in the texts and comments; moreover, they started calling for my lynching"

In 2017, the public space continued to be filled with discriminatory speech and hate speech, among other things, due to underdeveloped public awareness of the seriousness and the consequences of such an inappropriate discourse. At the same time, the very concept of hate speech is still not clear enough, so we are still witnessing that a passionate discourse or criticism are called hate speech, while other times the phrase "freedom of expression" is manipulated in order to promulgate hate speech, and the public sometimes also wrongly bring hate speech into the same line as threat or slander. Having noted an increasing incidence of negative and hateful reporting on some vulnerable groups, which also reflected in hate crimes, the Fundamental Rights Agency FU (FRA) in the 2017 Fundamental Rights Report stated that member states should ensure that all hate crimes, and in particular those targeting asylum seekers, refugees and migrants, be effectively investigated, prosecuted and condemned in accordance with national law, the EU Framework Decision on Combating Racism and Xenophobia, the European and international obligations, as well as the relevant ECHR case law.

During 2017, discriminatory speech was recorded in a part of the media that run the headlines and accompanying articles, stirring prejudices and stereotypes about people, for example, of other skin colour. Some media reported about a case when an asylum seeker allegedly attempted to rape a woman, a Croatian citizen, and such reporting, where national affiliation was groundlessly stressed and featured, resulted in the CJA (Croatian Journalist's Association) response, urging editors and journalists to professionally report on the violence involving asylum seekers, paying due attention to stereotyping and avoiding to spread prejudices, intolerance and hatred among the citizens.

The Roma, too, are still being portrayed in an unacceptable manner, which also affects the perception of that minority in the society. Every so often, some local internet portals contribute to building such an image, carrying almost exclusively news in which Roma are involved in criminal acts, and failing to delete negative and discriminatory comments below such articles. Preserving the international standards of human rights protection requires a timely and adequate response from all members of the society, including journalists, who decide on how to convey the information and whether something is information worth reporting at all, taking into account their own social responsibility for professional and objective reporting, without unnecessary data, such as for example, the ethnicity.

In Croatia, we have also witnessed the phenomenon of launching fake news for the sake of score settling with persons of different views, but also naming unlike-minded people "fake news". At the same time, some media really do manipulate information in their reporting and spread misinformation. Some see the reasons for this phenomenon in the earnings that the media make each time someone opens up a provocative and/or shocking article (click-bait), while the others see the motive of such reporting in political gain, by means of media propaganda.

The perception the anonymity on the internet encourages individuals to launch threats to unlike-minded people in anonymous comments, which later gets pursued by the bodies of prosecution. For example, the police

Iz brojnih primjera gdje pojedinci putem interneta, s udaljene lokacije, drugima prijete i izazivaju osjećaj straha, vidljivo je da kod građana i dalje nije prisutna svijest o mogućnosti počinjenja kaznenih djela putem interneta i njihovim pravnim posljedicama.

took action upon online threats launched to the prime minister, a prelate, a minister, and journalists. Following a report on the business success of a young asylum seeker, a journalist received xenophobic and racist threats, and the perpetrator was found thanks to a rapid and adequate response by the police. From numerous examples where individuals threaten others and cause fear via the internet from a remote location, it is evident that citizens are still unaware of the possibility of perpetrating criminal offences via the internet and their legal consequences, which needs to change.

Apart from the comments, also problematic is the anonymity of blog owners and the sites on which inappropriate content is posted and where scores are settled unilaterally, which requires a more serious approach in order to identify and sanction those responsible and in order to ensure legal protection for the victim. It is precisely because of the anonymity of the authors of articles and/or website owners and because such sites are most often registered outside the EU, that the injured party is frequently deprived of judicial protection. In the Tamiz v. United Kingdom (2017), the ECtHR concluded that the injured party was entitled to a reimbursement and he had to file a lawsuit against the known authors of the offensive comments, but also against Google as a secondary publisher, as well as against the owner of the Blogger platform, where controversial comments were published. In such cases, Croatian criminal prosecution bodies have no jurisdiction over websites registered abroad, and the injured party cannot identify the injuring party, which is a prerequisite in the civil law to file a regular civil suit, so that the injuring party remains without legal protection. However, the competent authorities have at their disposal a mechanism of international legal assistance that could enable the injured party to find out who the owners of the sites are where insulting articles were published, and to ask them for protection or reimbursement. In 2017, the MI recorded 18 criminal acts of public incitement to violence and hatred under Article 325 of the Criminal Code, of which only six were committed via Facebook, which shows the absence of awareness that the competent authorities have the legitimacy and the obligation to act in such cases.

Italy and Estonia are trying to further prevent an increased violence on the internet through specially trained web-policemen who – apart from sorting out unlawful material from websites, in order to use them in court and other proceedings – by browsing internet content, find potential offenders and notify them online about the inadmissibility of their offences before crossing the border of unlawfulness. Estonia, four times smaller than Croatia, having spent some minor funds for training, has three such web police officers who have their own profiles on social networks and have an impact on the prevention of inappropriate behaviour on the internet in their daily interactions with the citizens. In addition to the good practice behind the EMA (Electronic Media Agency) and the UNICEF media literacy campaign, which we wrote about in the 2016 Report, we welcome the above idea of these European countries that goes hand in hand with modern technology and where people work intensively in real-time to prevent inappropriate discourse in the virtual world.

The media of the left and right provenances have been mutually settling scores in articles, which entailed inappropriate reactions of the citizens. Hence, on two occasions in 2017, in front of the building of the publisher of the Novosti weekly newspaper, the Serbian National Council, a copy of the newspapers was burnt at a registered protest rally, which was accompanied by the war cry "For Homeland – Ready" (*Za dom spremni)*, inviting the Serbs to leave the RC and the Government to stop providing financing for the newspaper. This was motivated by the revolt stirred by some media,

who had accused the Novosti for the summer fires, and the intolerance manifested itself in the arson in the Serb village of Brgud, which the female defendants explained with the anger they felt against the Serbs since the Homeland War. In dealing with the topic of the memorial plaque in Jasenovac, some newspaper articles deepened a disagreement over the use of "For Homeland – Ready" and provided fertile ground to more intolerance, also attempting to put out in the public the theory that any disapproval of the controversial greeting was a denial of the values emerging from the Homeland War. In such cases, a reason for concern is in the lack of professional responsibility of the author of the articles, as well as of the editor.

Media freedoms

According to the Media Freedom Index, monitored by the non-governmental organisation Reporters Without Borders, the RC dropped down for as many as 11 positions compared to 2016 and now ranks as 74th in the competition of 180 free media countries in the world, ranking behind all its neighbours.

Although journalists serve to inform, they were the target of online death threats because of their work and some were also physically attacked. The proceedings are still ongoing, and we should only see the consequences of such behaviour. Swift condemnation of violence is commendable, but it takes an adequate and timely reaction by the police and judiciary, because the postponement of prosecution otherwise contributes to building an opinion that such a conduct is acceptable. According to CJA data, the MI recorded 13 criminal offences of threats to journalists and 1 criminal offence of bodily injury in 2017, whereas in six cases actions were taken against journalists that were characterised as public order offences.

In addition to the need to strengthen media freedoms, the CJA pointed to the trend of marginalisation of certain public broadcasting programs developing an analytical and critical approach to day-to-day political situation, and warned of their unreasonable termination, in particular of the "Hrvatska uživo" as an example of a broadcast of wide public interest, for which the CJA also organised a protest rally. Such an editorial policy is in contrast with the CRT (Croatian Radio and Television) Development Strategy 2013-2017, where diversity of opinion is regarded as necessary for the sake of credibility and neutrality.

The previous year at the CRT was marked by the adoption of the Decision on the way of setting up audiovisual content on social networks and by an attempt to adopt the Ordinance on the use of social networks, as well as by the sanctioning of some journalists and editors. The decision passed by the CRT Board of Directors in November 2017 regulates the way of authorising and posting content on social networks on behalf of the CRT, and it could have an adverse effect on its relationship with the public. By imposing an obligation on the employees to request a permission in writing from the superiors prior to posting a content on the CRT social networks, and taken the duration of such a process, it could create an even greater gap between this public service and its end users, who would look for the desired information in a shorter time elsewhere. The Ordinance, which was, after all, withdrawn before the adoption, envisaged imposing a code of conduct on the workers using the internet, even when they used it privately, and the violation of the code would be considered a serious breach of employment. In the future regulation of this matter, one should bear

in mind that restrictive standardisation of the use of the internet opens up the way to limiting the freedom of expression of CT employees, primarily journalists, and may cause self-censoring, or the so-called cooling effect.

There is also a concern about the social network trend where employers view the private profiles of their employees, evaluate the content posted there and make work-related and legal decisions based on the obtained information. There is a question of differentiation between the public and the private action and what is considered a public address, especially in the context of the right to freedom of expression. Prominent journalists are hardest hit by such a social phenomenon, since their employers considered posts on their own private profiles as a violation of the employment or the ethics code, which led to the termination of employment, suspension of cooperation or a last warning before the notice of dismissal. It should be noted that, in the case of Wojtas-Kaleta v. Poland (2009), the ECtHR took the position that a journalist in the information service should be distinguished from a non-journalist employee. For this reason, the ECtHR concludes that a journalist, pointing to the issues of public interest, whose statements have the factual basis and the value judgment, must enjoy the freedom of expression in all its capacities, and this is why the sanctioning of that employee would represent an interference in the freedom of expression and a violation of Article 10 of ECoHR.

It raises concern that the media, thinking independently but dependent on the funding, have been deprived of almost any form of state financial aid, but depend on the good faith of citizens who are able to provide donations.

In the context of journalism, some agencies and news outlets have regulated the grey zone of social networking activities, both for the employers and their employees, by encouraging journalists to open official profiles in addition to private ones.

Although funding from the EU has been secured in a multi-million amount, the Ministry of Culture (MC) did not announce a tender for the Community Media Development project, announced for 2017. Therefore, it is not surprising that, due to this decision of the MC, some journalists, publishers and electronic media resorted to crowd-funding and online donations from the citizens in order to continue with their work. Knowing that every democratic society appreciates and fosters independent and professional journalism, it raises concern that the media, thinking independently but dependent on the funding, have been deprived of almost any form of state financial aid and depend on the good faith of citizens who are able to provide donations.

Communicating through symbols

In 2017, the use of various controversial symbols emerging from the Second World War Nazi-allied Independent State of Croatia (ISC) continued, such as the so-called "earmarked U", the swastika, and "For Homeland – Ready" – with this war cry present not only at concerts and public events, but also as a part of the insignia of some veteran's associations from the Homeland War. Although historians warn that this greeting was taken over from the Ustasha movement, there are those who do not mind it, and believe that its use in the Homeland War "purified" it from negative and criminal connotations.

In order to address the final solution to the problem of the admissibility of certain symbols, slogans, signs, marks, names, nicknames, titles, greetings, war-cries, movements, gestures, uniforms and parts thereof, or other features of totalitarian regimes and movements, the Government of the RC established a committee to deal with the consequences of the rule of undemocratic regimes in order to make recommendations and assist the legislator in finding a legal arrangement pertaining to certain features of totalitarian regimes. At the time of the drafting of this Report, the committee came out in public with the so-called Dialogue Document, in which they made a recommendation on the explicit banning of some controversial hate features, such as Hitler's greeting, the Nazi swastika, and the Ustasha greetings "For Homeland and the *Poglavnik*" and "For Homeland – Ready". The document states that, in spite of this greeting being associated with the Homeland War for more than a quarter of a century now, and many people give it legitimacy for that reason, it is still unacceptable, because it was unconstitutional even at that time, and the absence of a timely official reaction led to the fact that we have to deal with its tolerability these days. Therefore, due to the fact that this greeting has been unconstitutional from the very beginning of the Croatian statehood, and it cannot be considered "purified" of negative connotations due to the passing of the time or due to its usage in the Homeland War. Nevertheless, the Dialogue Document proposes that a limited exemption from the blanket ban on the public use of the greeting "For Homeland – Ready" be considered and incorporated in the rules regulating the rights of the Croatian defenders, which would strictly refer to the Croatian military formations, originally established outside the regular troops of the Army of the RC: there would be no obligation of removal of the insignia for those who had used this greeting as an "official" mark on from 1991 to 1995, as well as while paying tribute to the defenders who had fallen for the RC wearing them. It remains to be seen whether the legislator will adopt all, or just some of the recommendations by the committee, whether the prosecution bodies and the judiciary will systematically and consistently prosecute and sanction the unconstitutional and unlawful communication with the symbols within the existing legal framework and whether they will take into account the recommendations from the Dialogue Document in doing so.

Due to the fact that the greeting "For Homeland - Ready" has been unconstitutional from the very beginning of the Croatian statehood, it cannot be considered "purified" of negative connotations due to the passing of the time, or due to its use in the Homeland War.

In addition, the Dialogue Document recognises the possibility of a blanket ban on the features of aggressor's troops in the Homeland War. In the 2016 Report, we wrote about the inscriptions on the tombstones, propagating the ideas that served as the foundation for the armed aggression against the RC; since the graves and monuments should not be offensive, the proposal of the committee is welcomed, since they did not consider it unacceptable to adopt administrative rules that will regulate this problem.

In addition to earlier decisions of the High Misdemeanour Court and the Constitutional Court, the Dialogue Document was also effected by the Constitutional Court Decision U-II-6111/2013 on the annulment of the ruling of the Čačinci Municipality from 1997, in regard to the change of a street name in Slatinski Drenovci to "10th April". The Court explained the grounds for the Decision with the fact that a controversial date may only be associated with the founding of the ISC, and since it was

known as a Nazi and fascist creation, of which the RC is not a successor on any ground, the Court concluded that this name contradicted the rule of law and endangered the identity of the constitutional state of Croatia to an intolerable degree, so the decision had to be annulled because of the preservation of constitutional identity. Also, the Decision states that such a position does not only relate to street names, but also applies to the communities, symbols and the like.

Controversial symbols and greetings continued to be used in 2017, despite the aforementioned Decision and the preceding decisions of the Constitutional Court. Therefore, it is essential that the police and the State Attorney's Office consistently work on identifying and prosecuting discriminatory and hateful behaviour, accompanied by a timely court action. However, according to the information available to us, the shouting of the war-cry "For Homeland", which was responded by "Ready" at the celebration of the Operation Storm victory in Slunj has so far remained without a court judgment, despite police action.

The decisions adopted in 2017, of which the Ombudswoman's Office has hold, show that in the three out of eight cases conducted before the first instance courts, the persons accused of shouting "For Homeland – Ready" and displaying the controversial iconography were set free. As the reason for passing a pending acquittal in one of these cases it was stated that the Misdemeanour Act did not explicitly mention the controversial greeting in its list of misdemeanours – overlooking that some laws have an open list of offences, while in other laws a general formulation also applies to individual actions. Even if the cases in which the misdemeanour courts release the perpetrators are sporadic, it deserves mentioning that both the Constitutional Court and the High Misdemeanour Court have already taken a position on the inadmissibility of (neo-) Ustasha iconography and greetings, and we hope that the Dialogue Document will also contribute to building a consistent case law.

Moreover, although there is a clear legal framework and the case law at the highest courts forbidding the displaying of Ustasha symbols and shouting Ustasha greetings under the threat of sanctions, this ban is not consistently applied in the work of all administrative bodies in the cities and municipalities, which affects legal certainty and confuses citizens. According to data by the MPA, when deciding on the registration of the statute of an association containing the greeting "For Homeland – Ready", some state administration offices reject them, while others approve them under the pretext that it is not explicitly forbidden by any law or by any general subordinate regulation regulating the work of associations. It does not seem that the instruction issued in 2017 by the MPA to the Zagreb City Office for General Administration has contributed to the solution of this problem, either: neglecting the existing legal framework, the instruction directs state administration bodies to continue approving the registration of disputed statutes of associations, until the Committee comes out with its recommendations. This created the impression that the use of disputed symbols was legally permitted, although the mechanisms for sanctioning it existed.

In addition to an inconsistent practice of state administration offices, legal uncertainty deepened further by the relocation of the memorial plaque for the killed members of the Croatian Defence Forces (HOS) from Jasenovac to Novska, although merely moving the plaque from the area of the former ISC death camp to a new location has no impact on the fact that there is still text on it with the greeting under which people were killed because of their race, national affiliation, beliefs and

other reasons. It remains to be seen what kind of response the MPA would provide in that regard within the context of the Dialogue Document.

In 2017, we also witnessed many events involving waving flags that did not correspond to the parameters laid down in the Act on the Coat of Arms, Flags and Anthem of the RC, and on the Flag and Sash of the President of the RC. Police administrations do not show any consistency in sanctioning and/or seizing flags that are not in accordance with the law: for example, an interpretation provided by one police administration was that they did not undermine the reputation and dignity of the RC. According to the data available to us in 2017, 34 misdemeanour offences were reported involving controversial flags, and only one court was in position to deliberate on them. When it comes to flags and/or coats of arms that do not match the given parameters, it is not clear why the reactions are not regular, but inconsistent, that is, why such symbols are not seized and the offenders sanctioned.

Sports

We are still witnessing an inadequate and even indictable behaviour by some fans at sport events. Shouting the slogans "Srbe na vrbe" ((*Hang)* Serbs on willow trees) or chanting disturbing messages, like "Mi Hrvati ne pijemo vina, nego krvi Srbina iz Knina" (Us Croats drink no wine, but the blood of Serbs from Knin) are very worrying. Although teams from the First Croatian Football League were fined on several occasions, in the amounts ranging between HRK 5,000 and HRK 80,000, such sanctions are unbecoming the act and entail no consequences, whatsoever, for direct offenders. Unfortunately, the shouting of hate slogans or threats and the waving of hateful banners fail to receive a response, which would be to abandon the match or to take the offenders out from the stadium. The security paid by the clubs' administrations are often ineffective in preventing bringing in prohibited stuffs and banners to the stadiums, and the abandonment of a match depends on the assessment of the security threat and the consequences that may arise afterwards in and outside the sports field. So, there is a fear that an adequate response to inappropriate behaviour of fans would cause an even bigger disarray. However, a failure to respond in preventing, stopping and sanctioning hate speech and other violence in sports competitions, as well as bringing in of forbidden stuffs, reflects negatively on the behaviour of fans outside sports fields.

Regardless of whether they are directed against an individual or a group, if the messages by supporters incite hatred or violence, it requires an unequivocal reaction from all those responsible - from the security and the clubs, to the police and the judiciary.

In the summer of 2017, several fans' excesses were recorded as a follow up to inappropriate behaviour, which started within the sports field. After the posters and graffiti showing the head of a prominent sports worker with his head crossed, the fans who have continuously heaped abuse on him during football matches also physically attacked him. In that case, the police found the perpetrator swiftly and prosecuted him. After yet another, more vicious attack on the same person, which is still being processed by the bodies of persecution, the fans virtually idolised the perpetrator in a song during a football game.

The second urgent reaction of the repressive and judicial apparatus was an action against the fans who in June 2017 cried out extremely inappropriate and chauvinist messages against a female dignitary. The perpetrators, including juveniles, were arrested and the Misdemeanour Court ordered detention, which was later abolished by the High Misdemeanour Court, since the concrete facts and circumstances justifying detention had not been listed when determining the measure.

Therefore, although institutions respond quickly when it comes to verbal and physical attacks by fans outside sports arenas, additional effort is needed to prevent and to prosecute those who have sent hateful and threatening messages within the sports fields. If supporters incite hatred or violence, regardless of whether their messages are directed against an individual or a group, it requires an unequivocal reaction from all those responsible - from the security and the clubs, to the police and the judiciary.

RECOMMENDATIONS:

159. To the Ministry of Justice and to the Ministry of the Interior, to intensify the training of judicial officers, judges, state attorneys and police officers about the national and European case law in relation to the symbols, slogans, signs, marks, names, nicknames, titles, greetings, cries, movements, gestures, uniforms and parts thereof, or other features of totalitarian regimes and movements that propagate, justify, diminish or deny Nazi and related war crimes and the Holocaust, as well as the hate speech;
160. To the Ministry of the Interior, to process violators of the Act on the Coat of Arms, Flags and Anthem of the RC, and on the Flag and Sash of the President of the Republic of Croatia.;
161. To the Ministry of Culture, to urgently issue a tender for the Community Media Development project and to find ways and means to support independent and non-profit media;
162. To the Ministry of the Interior, to establish measures for the prevention of criminal offences committed on the Internet;
163. To the Croatian Radio-Television, to harmonise its Ordinance on Commenting on Social Networks with the Labour Law;
164. To the Croatian Radio-Television, to consider an impact of the Decision on the manner of setting audiovisual content on social networks on the freedom of press;
165. To the Ministry of Construction and Physical Planning, to draft a proposal for amendments to the Cemetery Act concerning the permitted content of the inscription on the graves and monuments;

3.25. RIGHT TO PRIVACY

"I had a debt at the bank because I'd lost my job and could no longer pay the loan. I got a notice that they'd taken over my debt and they kept calling me persistently. With time, they started calling my parents who told them I did not live with them and they had nothing to do with it, but they kept disturbing them. They then called my parent's neighbour, asked for me, and explained why they were asking for me. They have just so disclosed my information, and now all my acquaintances know I am in debt... I called them and asked why they called around, and they did not even apologise ..."

The EU Charter of Fundamental Rights guarantees respect for private and family life and raises the level of protection of the right to privacy to the level of the fundamental rights in EU law. In addition, the right to respect of privacy and personal life and the inviolability of home stand out as the highest legal standards of human rights protection in a number of international documents, and the Constitution guarantees every citizen the legal protection of his personal and family life, dignity, reputation and honour.

During 2017, the Ombudswoman was approached by citizens claiming that debt collection agencies threatened their right to privacy and their personal and family life. From Croatian National Bank (CNB) statements, it follows that in 2017, they received 43 complaints from citizens dissatisfied with the frequent and inappropriate calls they were receiving from a new creditor in relation to the payment of their debt. The Personal Data Protection Agency also received a number of citizens' complaints about the conduct of the agencies, in which they inquired about the legal basis for the collection and sharing of personal information of the debtor; the same issues were brought to the attention of consumer protection associations on a daily basis. This shows the extent of the problem and points to the need for a more intense involvement of state bodies in the protection of citizens, and especially for setting up a legal framework for the operation of agencies.

Through transfer of bank claims and claims of other creditors to agencies, the citizens have become victims to intrusive behaviour and harassment, which endangers their privacy and dignity.

Through transfer of debt claims to another agency, citizens have become victims to intrusive behaviour and harassment, endangering their privacy and dignity. Some agencies call by telephone the whole day, requiring the payment of debts, also calling family members and neighbours. Without going into the legal basis of claims, the actions undertaken in trying to collect the debt are problematic.

Although the Civil Obligations Act (COA) regulates the relations between the transferees and agencies, there is no legal framework in the RC defining the standards and rules of how the agencies handle debt collection. The decision of the CNB on the purchase of the placements by credit institutions contains the provision that, due to the transfer of claims to a new creditor, the consumer should not be placed in a more unfavourable position than with the previous creditor. However, the CNB is not entitled to supervise the claims collection agencies and further actions undertaken by the acquirer remain outside their control.

In the EU, the umbrella organisation of debt collection companies – the Federation of European National Collection Associations (FENCA) prohibits intrusive and humiliating treatment of creditors by the Code of Conduct for companies that perform the collection activities. It is the right of an individual to have their personal dignity respected by the others, without harassment or diminishing their dignity or moral reputation in the society. In accordance with the Code, agencies should not make unreasonable pressure on debtors and should respect privacy, i.e. contact only the debtor, not their family members.

RECOMMENDATION:

166. To the Ministry of Justice and the Ministry of Finance, to prepare a draft law regulating business operations of legal entities specialised for the purchase and collection of claims;

3.26. ARCHIVE MATERIALS COLLECTIONS

Throughout 2017, there were numerous fierce discussions on the accessibility of the archives, indicating the desire of the society to acquire a comprehensive understanding of its history and the past regimes. A leading topic in the public was a prerequisite need to obtain an insight into the documentation of the bodies and social-political organisations of the former state, in order to identify the individuals who cooperated with them or worked for them, those responsible for human rights violations who have continued to hold prominent political or state positions in the present-day Croatia.

However, regardless of the public interest in the accessibility of archival data, the regulation of this matter should be approached systematically and with caution, in order to avoid that the intention and the results of the process be abused for political purposes, as cautioned in the 2009 Resolution on EU Conscience and Totalitarianism, which emphasises that no political option has a monopoly over the interpretation of history. Historians should be allowed to make conclusions about historical events, as independently as possible and using a scientific approach and scientific methods, as to avoid that a lay interpretation of historical facts becomes embryonic for undemocratic ideas and, in extreme cases, an incentive to hate and revenge.

On the other hand, the need to open the archives of the former regimes, primarily to the victims, is mentioned in the Resolution 1096 of the Parliamentary Assembly of the Council of Europe on the abolition of legacy of the former communist totalitarian systems. In support of the opening of the archives, primarily to the citizens to whom the data apply, in the case of Haralambie v. Romania (2009) the ECrHR points out that an individual has a vital interest in accessing the data held by the public authorities and they have the obligation to provide an effective procedure to access such information. In the Croatian context, these are the persons or their heirs, the victims, who were convicted for political, politically motivated or other criminal offences by the abuse of political power during the communist rule, so that the availability of archival documentation would considerably facilitate the process of the revision of such convicting decisions or of another relevant legislative documents.

Therefore, in the normative sense it is necessary to evaluate and protect the victim's position, or to regulate the availability of personal and classified information, taking into account the proportionality between the public interest of making archives available to everyone, and the respect for personal and family life, dignity, reputation and honour.

During 2017, two legislative proposals on the archive material were submitted to the procedure. Firstly, the parliamentary club of the MOST independent lists party proposed amendments to the Archives and Archive Materials Act, which the Croatian Parliament almost unanimously adopted, and which came into effect in May, mainly referring to the issues of availability of the material produced up to 22 December 1990. During public consultations, we highlighted the significance of appropriate protection mechanisms, which should be prescribed for special categories of sensitive data, such as race or ethnic origin, religious beliefs, disability/health or sexual orientation, as well as information on the criminal record of individuals, in line with the principle of rehabilitation. The Ombudswoman's recommendation that classified information should not be made available to anyone unselectively, merely by the entry into force of the regulations, but their availability should be regulated in accordance with the existing data privacy regulations, has been accepted.

At the time of writing of this Report, a working group of the Ministry of Culture was working on a proposal of the new Archives and Archive Materials Act, which needed to be harmonised with the EU standards and is now in the process of approval; in parallel, they also worked on the original initiative to amend the regulations.

3.27. PROPERTY-LEGAL RELATIONS

Unfortunately, the processes of the restitution of assets confiscated during the Yugoslav communist regime have not been completed yet, even if the number of citizens' complaints to the Ombudswoman has decreased. The MJ notified us in their statement that neither they, nor the first instance bodies at state administration offices, have a precise information on the number of settled restitution cases, for the following reasons: one claim often encompassed many real estate units, there is a large number of partial compensation rulings, because of lengthy court proceedings, and because there is no obligation of keeping official records of the submitted compensation claims. However, it is difficult to take any measures that would improve the situation in this field without keeping records. Thus, despite the reduced number of complaints, it is not clear whether there has been any progress in the processing of the remaining cases, which are above all long-lasting, so that many applicants do not live long enough to see the completion of the procedure.

The Regulation on the special type of compensation for movable property with the characteristics of cultural assets making an integral part of collections, museums, galleries and other institutions was supposed to be passed in 1998, since the restitution claims of movable property with the characteristics of cultural assets cannot be resolved without its passing. However, it was only in 2016 that the e-consultation on the draft Regulation was conducted and the drafting of

Long duration of actions undertaken by administrative bodies and the dissatisfaction with the content of rendered decisions is the most common content of the complaints filed to the Ombudswoman.

a Fiscal Impact Assessment Report, without which the adoption procedure cannot be continued, is still ongoing, as the MC did not submit the necessary data to the MJ.

Procedures of co-ordination, consolidation of holdings, usurpation and other agrarian legal measures, which were started under the regulations that are no longer in force, have not been completed because the previously appointed commissions ceased to work and the new bodies, which would complete the proceedings, were not appointed until March 2016, when the Minister of Justice issued a Decision on the Establishment of the Commission for the Completion of Land Consolidation Proceedings, as an appellate body. Since then, the Commission passed decisions on 27 appeals on land consolidation rulings and there are still 7 unresolved land consolidation appeals and 19 pertaining to other agrarian-legal measures.

Unfortunately, the lengthiness of resolving second-instance cases in the area of property-legal relations is still the biggest problem; the MJ claims that an insufficient administrative capacity is the reason. The dissatisfaction of the citizens, expressed in their submissions to the MJ, and at the same time the most common content of the complaints addressed to the Ombudswoman, relates to the long duration of actions taken by administrative bodies in the field of property rights, as well to their dissatisfaction with the content of the passed decisions. Therefore, the MJ needs to strengthen its administrative capacities and take other measures in order to shorten the duration of these proceedings.

RECOMMENDATIONS:

167. To the Ministry of Culture, to submit to the Ministry of Justice the necessary data for the preparation of the Statement of Fiscal Impact Assessment of the Regulation on the special type of compensation for movable property with the characteristics of cultural assets making an integral part of collections, museums and galleries;
168. To the Ministry of Justice, to adopt the Regulation on the special type of compensation for movable property with the characteristics of cultural assets making an integral part of collections, museums and galleries;
169. To the Ministry of Justice, to take necessary measures and strengthen the capacity for a faster solving of second-instance cases by appeals of citizens in the field of property-legal relations;

3.28. CONSTRUCTION

"I hope we will finally resolve my decades-long agony, which started in 1991, and urgently enforce the decision on the demolition of an illegal construction on my plot in Dubrava. For that reason, I am turning to this institution for help, in order to ensure legality, and my case will also make an interesting topic for the media."

The largest number of citizens' complaints received in 2017 in the field of construction and physical planning still relate to the work of building inspections in the procedure pertaining to the enforcement of administrative and administrative-

judicial documents ordering a removal of illegally built constructions. The number of complaints relating to the procedure of legalisation and spatial planning is much smaller than before.

According to citizens' complaints, the final and effective decisions of building inspectors on the removal of illegally built buildings, as well as the decisions by administrative courts, do not get enforced for years, in some cases for more than a decade, and some are not enforced at all.

From the examinations conducted and the questions citizens asked on the MCPP website, it is obvious that those citizens whose rights have been violated by illegal construction are not clear about the reasons why enforceable inspectorate decisions or court decisions are not being applied: why they are delayed, interrupted or suspended. The explanations provided to them by the building inspection on the reasons for the failure to act are general, unclear, and do not refer to a specific subject.

In line with that, the MCPP was asked why an enforceable decision to remove an illegally built construction from 2003, issued nine years before the entry into force of the Act on the Legalisation of Illegally Built Buildings (ALIBB), has never been carried out and the structure has not been removed yet. The answer of the building inspection is that "...before the decision on the enforcement of each individual document, all the circumstances have to be checked and facts established, in order for the removal to be effective and in the best public interest." However, subsequent, discretionary review of enforceable administrative decisions and court decisions is not permitted, except for the cases of abolition of enforcement, as envisaged in Article 42 of the Act on Proceeding with Illegally Built Buildings (APIBB) and the cases envisaged by the Act on Building Inspection.

More transparent, more precise and clearer elaboration of inspection procedures in the enforcement of removal decisions is needed.

In one of the complaints filed at the beginning of 2017, the complainant seeks protection of her rights, maintaining that they have been violated by the illegal and improper work of the building inspection, which has not carried through its executive decision to remove illegally built buildings. She says that in her absence, more than a decade ago, another house was illegally built in her family house yard in Zagreb. The building inspectorate issued a removal decision in 2010, but it was not enforced, although the legalisation request submitted by the illegal builder was denied. She instigated a series of court proceedings that ended in her favour, but the court decisions were not enforced either. In the meantime, the illegal builder sold the house to a third person, who filed a new legalisation request, which was also denied. Despite all this, the illegally built house has not been removed yet. A complainant, an elderly person, feels helpless and unprotected in relation to an illegal builder and his legal successors, who are protected due to a failure of the building inspection to act.

The MCPP states that citizens often believe, without foundation, that by filing a complaint to the building inspection they have taken action to protect their property and other proprietary rights, but only courts can competently protect proprietary rights of citizens, not the building inspectorate. However, in these instances it is not about the complainants erroneously seeking the protection of their property rights from the building inspectorate, but they have won in the proprietary proceedings before the competent court, and the building inspection ordered the removal of the

illegally built building, but did not enforce its decision, and there is no possibility of legalisation, because this request was rejected several years ago. Citizens rightly expect the building inspection, which has been given extensive powers by law, to carry out its valid executive decisions, effectively and in reasonable terms, which is also a prerequisite for the effectiveness of the legal system.

The MCPP also states that the inspection operates ex officio and is not subject to the "administrative silence" institute, which has been confirmed by administrative courts. However, this does not mean that it is not obliged to enforce an own decision, or that the enforcement of the decision on removal can be of indefinite duration. On the contrary, decisions by administrative bodies and courts should be carried out as soon as they become mandatory and enforceable, or within reasonable time.

Ineffective enforcement of decisions on removal of illegally built constructions is currently off the table for a number of reasons: mostly due to the ongoing legalisation process, the prolongation of deadlines for it, the social reasons, the lack of funds and the long process of choosing the company to carry it out, and so on and so forth. According to MCPP data, out of the total of 835,143 legalisation requests for illegally built buildings, 608,759 (73%) have an enforceable decision. However, 137,173 requests were denied, dismissed, or the proceedings were suspended. If we add to this number 226,384 requests that have not yet been completed and 32,642 final/enforceable decisions rendered until the entry into force of the ALIBB, and 9,477 enforcement decisions on removal rendered after 2012, it is obvious that the number of these decisions, which are not carried out for various reasons, is truly big.

The goal of the MCPP is to integrate as many buildings as possible into the legal system compliant with the regulations, rather than forcibly removing them, as is the measure available to the state when estimates say that a removal of the building is in the public interest and that the building can by no means stay in the space. Such an attitude is expressed by the adoption of the ALIBB, which allows illegal builders to legalise their illegally built buildings at a more favourable rate, compared to legal builders. However, if illegal builders do not realise or exploit this right, and enforceable removal decisions are rendered, they must be enforced, in line with the ALIBB, the Building Inspection Act, and other regulations and the convention law.

The MCPP also states that another particular problem is the enforcement of removal decisions rendered before the entry into force of the ALIBB, and this particularly applies to family houses populated by elderly citizens and the poor, being their only home, and neither they nor their heirs applied for legalisation, either because of poverty or absence.

Given that the enforcement of decisions is a crucial part of the administrative procedure, without which it is not possible to carry out decisions rendered, a more transparent, precise and clearer legal elaboration of inspection procedures is required, especially since the Act on Amendments to the Building Inspection Act is in adoption, in which all the issues should be elaborated that hamper the effectiveness of the enforcement of decisions, such as possible exceptions to forcible removals and other topical issues that are vital for the enhancement of the inspection work and better protection of citizens' rights. Once this procedure is regulated precisely and clearly, rendered decisions must be enforced within reasonable time, rather than, as it has been so far, rendering removal decisions that are not enforced, or if they are, it is done by unclear criteria and in a long run.

RECOMMENDATION:

167. To the Ministry of Construction and Physical Planning, to amend the Act on Building Inspection Act as to regulate an effective functioning of the building inspection, in particular in the enforcement of the decisions on the removal of illegally constructed buildings, with clearly defined criteria and enforcement deadlines;

3.29. THE RIGHT TO HEALTHY LIVING: ENVIRONMENT AND NATURE, PUBLIC HEALTH, WASTE

The right to a healthy life includes environmental and nature protection, noise and electromagnetic radiation protection, waste management and harmful environmental impacts on health, and the actions of competent bodies, following the recommendations, opinions, suggestions and warnings of the Ombudswoman, show their level of environmental awareness and responsibility for the preservation of nature and environment, as the highest constitutional values. The changes in environmental policy in 2017 were partial, not essential; it is not sufficiently integrated and represented in other sectoral policies, and cross-sectoral cooperation remains insufficient. Strategic projects and other economic and/or infrastructural projects should be ecologically acceptable and consistent with the purpose of the sustainable development, and MEE is only now preparing a comparative analysis of the UN Global Sustainable Development Goals with national policies and indicators that will serve as a basis for defining a new Sustainable Development Strategy in 2018.

Responses of competent bodies to Ombudswoman's recommendations, opinions, suggestions and warnings, show an insufficient level of environmental awareness and assumed responsibility for the protection of the constitutional values of nature conservation and human environment; therefore a stronger integration of environmental policy into other sectors is needed.

In 2017, the Paris Agreement entered into force, which aims to reduce the level of greenhouse gas emissions, which, among other things, are caused by the combustion of fossil fuels, industrial processes, waste disposal and logging forests, adversely affecting human health. Namely, the World Health Organisation estimates that environmental pollution is responsible for 20% of deaths in Europe, while the EU's 7th Environmental Action Program until 2020 identifies three priority areas of action: nature protection and strengthening of environmental resilience, increased resource-efficient growth with low CO2 emissions, and reduction of the dangers to human health and well-being (air and water pollution, excessive noise and toxic chemicals).

During 2017, the Ombudswoman received 10% more complaints than in 2016, and most of the problems are repeated from previous years: air, water and/or soil pollution from industrial plants and landfills, or other space-based interventions, radiation from mobile base stations, noise, the health status of drinking water, and the like. The common point is a concern about health, but also dissatisfaction with a lack of access to information, especially from the inspections, which also points to mistrust in the institutions.

Environmental associations report poor public participation in the decision-making processes, in which the values of the local community are not being respected, while the length of proceedings, difficult access to justice and the high cost of court proceedings indicate the insufficient implementation of the Arhus Convention. Also problematic are unreliable environmental impact assessment studies, an inadequate selection and operation of advisory expert committees in the environmental impact assessment procedures, and a lack of financial support for the work of environmental and human rights organisations.

Protection of the environment and nature

The Environmental Protection Plan for the 2016-2023 period was put out for public consultation in 2016 and was supposed to replace the National Environmental Action Plan rendered in 2002, but it was not adopted in 2017. This is one of the basic documents that should set the priority goals of environmental protection and provide the main framework for the implementation of the environmental policy; we welcomed the draft proposal in the 2016 Report because its content and measures covered most of the issues we regularly report about. According to MEE data, the New Environmental Protection Plan from 2018 to 2025 was revised in line with the comments from the public consultation process and is scheduled for adoption in the second quarter of 2018.

Air

According to the European Environment Agency (EEA) data, floating particles (PM) and ground-level ozone (O3) represent a relatively high health and premature death risk, and are significantly present in the air due to fuel combustion in transport, energy, industry, heating and agriculture.

Air pollutants	Impact on health
floating particles (PM)	central nervous system; cardiovascular diseases; eye, nasal and throat irritation; breathing problems; respiratory system: irritation, inflammation and infections; asthma and impaired lung function; chronic obstructive pulmonary disease; lung cancer; reproductive organs
sulfur dioxide (SO2)	headache and anxiety; cardiovascular diseases; eye, nasal and throat irritation; breathing problems
ground-level ozone (O3)	cardiovascular diseases; eye, nasal and throat irritation; breathing problems
Benzoapyrene (BaP)	eye, nasal and throat irritation; breathing problems; lung cancer
nitrogen dioxide (NO2)	liver, spleen and blood

Slavonski Brod is still facing a long-standing problem of polluted air and high concentrations of sulfur dioxide, hydrogen sulphide, ground-level ozone and floating particles due to the cross-border impact of the Oil Refinery Brod, which uses unprocessed oil. According to the latest official data, only in January 2017, the daily limit values of floating particles was exceeded on 23 occasions, hydrogen sulphide 34 times, and a significant exceeding of the daily concentration of sulfur dioxide was also noted.

By the end of 2017, the line ministers of the RC and Republika Srpska signed

the Protocol on Co-operation for Gasification of the Refinery by connecting it to the gas system of the RC, which should improve the quality of air. The CPHI continues to conduct the Study on the Environmental Impact on Citizens' Health, which began in 2016, in which the analysed concentrations of metals in blood, hair and urine and lung infections among the less and more exposed citizens of Slavonski Brod did not show a statistically significant difference. We trust that the Study will investigate all the impacts of air pollution on health - not only of metals, but also of floating particles and gases, whose values have been on the rise and have been registered since 2010, and that it will also establish the actual situation, based on which necessary measures will be taken for the health care protection of the citizens of Slavonski Brod.

The new air pollution in 2017 was recorded in Split due to the landfill of Karepovac, which was hit by a major fire in July, and on which remediation began at the end of the year. In the Report on Air Quality Testing by the Peoples' Institute of Public Health of the Split-Dalmatia County (IPH SDC) for the period between 16 to 20 July 2017, at the measuring stations in Karepovac, Split, Kaštela and Solin, highly exceeding values of floating particles and hydrogen sulphide were recorded, and it was stated that the period of measurement was not sufficient to give an air quality assessment, but it served only to comment on air during and after the fire. Even though an institution that promotes public health protection drafted it, there was no mention of effects it could have on health or the measures to be taken or that could have been taken.

However, on 19 July 2017, the day of the localisation of the fire, the official website of the PIPH SDC carried an announcement that the emission did not exceed the permitted values at any moment, and there were no reasons for agitation: the smoke and the unpleasant smell did not present a direct danger to health, but could cause irritation of upper respiratory tract and throbbing in the eyes, so the recommendation was – especially for chronic, pulmonary and cardiac patients and small children – to close the doors and windows and air condition the rooms. In case of leaving the premises in an emergency, the PIPH SDC recommended covering the mouth and nose with a mask or a light cotton fabric, and wearing sunglasses. Given that the Report recorded highly exceeding values of floating particles and hydrogen sulphide, it is necessary to ascertain why the citizens were misinformed and act in line with the level of responsibility.

The Report on air quality testing by PIPH SDC in the area of measuring stations Karepovac, Split, Kastela and Solin for the period from 16 to 20 July 2017 has recorded highly exceeding values of floating particles and hydrogen sulphide, without mentioning the effects it could have on health, although an institution promoting public health protection drafted it.

Apart from the Study on the Environmental Impact on Citizens' Health in Slavonski Brod, which will be completed in 2020, and the PIPH SDC Report on air quality before and after the fire in Split and the surrounding area, where health is not mentioned at all, the information available to us say that there is no model of systematic monitoring of the potential impact of air pollution on human health, nor the mechanism which would provide a human health protection in a systematic way in these cases, and it is necessary to establish them.

Water

''Due to frequent calls from the citizens of the Šibenik-Knin County on the Green Phone, we are sending you the emails that we have been sending to the Ministry of Environmental Protection and to other relevant institutions concerning the problem of contamination of the Krka river and the river Orašnica. We kindly ask you to try to help us solve this big problem, because no one has even tried to start solving it so far... I am sending you a photo taken today (9 August 2017) – a dike separating the polluted lagoons from the Orašnica, which flows into the Krka, collapsed and everything brimmed over''

Waters are a common good and are underpinned by the protection of the state, and their protection also includes the protection of the water environment, which contributes to the preservation of human life and health, the reduction of groundwater pollution and the provision of sufficient quantities and good quality of surface and groundwater for human consumption. The Water Act imposes a commitment on the Central Water Management Laboratory of the Croatian Waters to implement a systematic monitoring of surface waters, groundwater and coastal waters, for which annual reports are submitted to the MEE and the CAEN (Croatian Agency for Environment and Nature), but unfortunately they are not available on the official site of the Croatian Waters. It is extremely important to protect the sources of drinking water from pollution, as regulated by the Water Act via the sanitary protection zones and the Act on Water for Human Consumption, via the protection of water wells and water supply facilities, but the information on the effectiveness of these protection mechanisms is not always available, especially in the case of delayed recovery works.

There is no systematic monitoring of the possible impact on health of unsafe water: higher values of arsenic, iron and ammonia in the water for human consumption in the villages of Komletinci, Privlaka and Korođ, as well as successively exceeding turbidity parameters in Split and its surroundings are examples of the violation of constitutional rights to access to information and the right to a healthy life, because the notifications to the public were late and drinking water supply was delayed, which extended the period of possible exposure of the population to negative impacts.

The water we drink and use to prepare food or for other household needs, regardless of whether it comes from the public water supply system, cisterns, bottles or water tanks, as well as the water used in the food industry production is officially called water for human consumption and the Act on Water for Human Consumption stipulates that it must be safe for health by the parameters that have to be systematically monitored. Implementation of the Monitoring Plan of water for human consumption, implemented by public health institutes and financed by counties, under coordination of the CPHI, while the water service provider is obliged to ensure water safety. If default parameters are exceeded, the supplier must limit the delivery, notify the population, the professional committee and the competent sanitary inspection in an appropriate manner, and also has to investigate the cause and after 24 hours deliver the water otherwise.

The 2016 CPHI Water Safety Report showed that, due to a lack of financial resources, the monitoring of water for human consumption is least adequately being carried out in the Vukovar-Srijem County, and is also the reason why arsenic was not tested. Namely, in 2017 the sanitary inspection established exceeding values of arsenic, iron and ammonia, and banned the water supply in the villages of Komletinci, Privlaka and Korođ, ordered notifying the public on the health deficiency of the water as well as providing the supply of safe water otherwise, and filed preliminary misdemeanour charges for an offence. However, notifying the public was delayed, as well as the drinking water supply in another way, thus the period of exposure of the population to possible adverse effects of arsenic on health was extended; this is an example of the violation of constitutional rights to access to information as well as the right to a healthy life.

In the CPHI Health Assessment of the potential impact on health of arsenic in the water for human consumption in the Vukovar-Srijem County, it is stated that the subject here was the most dangerous geogenic contaminant of today, and that groundwater and surface water contamination with arsenic occurred due to natural contamination and/or human activities, such as ore melting, emission of gasses from fossil fuel combustion, wood industry, pharmaceutical industry, glass industry, the use of arsenic based pesticides and herbicides, industrial chemical waste disposal and the use of arsenic as an antibiotic in poultry production. The values of arsenic established so far in the area of this county have reached up to 197µg /l, and values higher than 10µg /l, as permitted, with the possibility of aberration of up to 50µg /l, have been established in 12 settlements, most notably in groundwater, which was allegedly not related to human activity. The exact number of exposed residents could not be estimated, and the analysis of incidence of deaths among the inhabitants of Komletinci and Otok, caused by cardiovascular diseases, malignant neoplasms and lung and bladder cancer has shown no increase in morbidity or mortality rates; however, due to a long-term exposure to the concentrations higher than allowed, the risk of developing some of these diseases was ascertained, and exposure should be discontinued as soon as possible.

Furthermore, in March, November and December 2017, in Split and the surrounding area, the parameter of turbidity in the water for human consumption was exceeded, and according to official data, it occurs regularly due to abundant precipitation in the karst areas, where the water is microbiologically safe and the only real threat is the danger of bacterial contamination. Here, too, the delivery of potable water was delayed, and was organised only after three to five days by means of water trucks, which also constitutes a violation of the right to access to information and the right to a healthy life.

According to data provided by the Croatian Waters, 17 large, 15 small and several mini and micro hydropower plants were operating in 2017. The CAEN established that certain protective measures were observed in the small hydroelectric power plant of Dabrova dolina 1, which led to endangering the gypsum barriers in the Mrežnica river, which are protected by the NATURA 2000 environmental network. In this case, the interested public was very active and persistent in protecting the public interest, as it was in the case of the planned operation in the wider area of the Peruča reservoir, which was abandoned. However, in many other areas the citizens have not yet been empowered enough in protecting the public interest, since the struggle for it is long lasting, exhausting, expensive and uncertain. These examples show that natural resources are still not on an equal

footing with the interests of economic development and it is necessary to work continuously on raising ecological awareness and institutional responsibility.

Soil

Although air, water and soil are the key constituent parts of environment, and the quality of one affects the other, environmental monitoring programs lack measures for soil monitoring unlike in the case of water and air. Namely, the Environmental Protection Act stipulates that adverse impacts on the soil must be avoided to the fullest possible extent and that soil protection includes both the preservation of health and the function of the soil, as well as the prevention of damage through monitoring of the condition and quality changes of the soil, and remediation and restoration of damaged soils and sites; however, data on soil conditions are not easily available. The MEE reports that, in 2017, environmental inspectors did not perform any soil sampling, although this measure was at their disposal, and is crucial at landfills, especially black spots. Therefore, a body that will carry out systematic soil monitoring and coordinate mandatory soil sampling should be defined, in the same way as has been prescribed that the Croatian Waters monitor underground, surface and coastal waters, CPHI of water for human consumption, while the State Hydrometeorological Institute (SHMI) is responsible for the state network for continuous air quality monitoring.

Environmental monitoring programs lack soil-monitoring measures, and environmental inspections did not perform any soil sampling in 2017 whatsoever, although the Environmental Protection Act stipulates avoidance of adverse effects to the highest extent possible, as well as monitoring of the situation, changing the quality and repairing and restoring damaged soils and locations.

The EEA seeks to contribute to the development of EU land and soil regulations, which are fragmented and insufficiently coordinated, and emphasises that food production, biomass and biofuels production, carbon storage, soil biodiversity, water filtration and others, are under increasing pressure due to human activities such as conversion and intensity of use, as well as land abandonment, which is why the EC will examine the existing national and EU regulations, in line with the 7th EU Environmental Action Program by 2020.

According to the preliminary data of the MEE, the Environmental Inspectorate in 2017 sampled processed medical waste, but did not perform any sampling of soil, sea and air, and filed about 400 misdemeanour injunctions and not a single criminal order request; it also carried out one supervision of persons authorised for performing professional environmental protection tasks and submitted a proposal to abolish the consent to carry out these tasks. There are no data available on how many times the nature protection inspections ordered determination, sampling or expert testimony, but two criminal charges were filed and seven motions to raise an indictment, as well as 19 misdemeanour orders were issued while the water inspectorate filed 15 motions to indictment.

It is positive that in 2017 no permits were issued in the field of construction and spatial planning without a prior compulsory environmental impact assessment procedure, as confirmed by the MEE and MCPP, whereby the MCPP encourages all stakeholders to play a more active role in space protection through the establishment of a Physical Planning Information System (PPIS), which,

besides the availability of spatial plans of all levels, allows, inter alia, the viewing of data on the interventions.

Noise and electromagnetic radiation protection

Noise-related complaints referred to different sources: production plants and workshops producing noise and vibration, catering facilities, wind power plants and others. Given the increase in the number of wind power plants in the RC, it is important to point out the problems faced by the population living in their immediate vicinity. These are mostly elderly people, in the underpopulated places of the Dalmatian hinterland, who suffer a long term exposure to small or large-scale noise, which affects their health. Though investors pay cash amounts to the LGU accounts, the residents who are the most exposed to noise do not necessarily receive a compensation for their impaired quality of life; therefore, one should make it possible for them to make a fair share of that amount. The problem is the noise that comes from unregistered activities to which the Noise Protection Act does not apply, and we have noted cases when the customs inspections, in unclearly written supervision reports, did not find that such an activity has taken place, which is why the noise is not measured; as an absolute minimum, it would be necessary to impose a tighter supervision in such cases. Citizens complain that the controls were pre-arranged, so both examples indicate that the purpose of the Noise Protection Act has not been fully realised.

The most significant share of complaints was again in relation to electromagnetic radiation of mobile base stations. However, despite continued recommendations from MH and MCPP, there are still no indications of legal changes to take place that will allow more effective health protection and control over their installation.

Again, the significant proportion of complaints were related to electromagnetic radiation coming from mobile base stations, as detailed in the 2016 Report. Since then, despite the continuous recommendations of the MH, there has been no change in legislation. During 2017, complaints related to the validity of approvals for use, and most often they were neither requested nor issued, and rush notes had to be sent in order to obtain a statement from the building inspection in charge. The Istria County, as well as Pula and Zagreb, have set more stringent criteria for installing these sources of radiation, and it would be good for other LGUs to follow these examples. They ignore the health hazards that this radiation, as well as noise, can have, so it is necessary to increase the awareness of competent institutions for a more effective health protection in these cases.

Influence of harmful environmental factors on health

As in 2016, preventive and protective measures for the health of citizens living near landfills, industrial plants and other facilities that may or have already had a negative impact on the environment are still not clearly defined, enforced or monitored. The arguments in favour of this include the events that are well-known to the general public: the Split fire, which also caught the landfill of Karepovac, and the increased value of arsenic in water for human consumption in the area of Vukovar-Srijem County – in both cases, assuming of responsibility for the health of citizens was delayed. However, the complaints also include some other cases that were not so prominently

reported in the media, and still present an equal danger to human health, the environment and nature.

"Everyone has their own Croatia, and many of us don't have any of it. The 'appropriate ones' have set the laws to suit themselves and their privileged people. 100,000 of us suffer every day. I've begged 100 times, but they are 100% deaf, and we are not all the same. Everything I write, I write on my own behalf, let them come to my terrace, if they are human beings, and let them see what it's like to live with that pollution. They secured their children and their families, and we are the fools, who pay and keep their mouth shut. Please Madam, what makes them better than your children and mine?"

The lady is of age and suffers from a serious health condition. In the vicinity of her home, about 50 meters away, there is an industrial plant operating in three shifts and using petroleum coke, after the transfer from oil to gas and the modernisation of the plant has been approved. Although the use of petroleum coke, which is carcinogenic, disrupted her health, and she has medical records proving it, we have not been able to establish a violation of environmental, construction and physical planning regulations because environmental protection and, apparently, the protection of human health are not a priority in the current regulations in such situations.

Similar examples confirm that it is necessary to urgently adopt a new Environmental Protection Plan with a clear goal and clearly elaborated measures to protect citizens from health hazards and environmental pressures, including the introduction of mandatory health impact assessment (HIA) prior to planning and building large industrial and other infrastructure facilities, as we have been recommending since 2014. The amended proposal is not publicly available at the time of submission of this Report and it is necessary to put it out as soon as possible, in line with the Code of Conduct of Consultations with Interested Public, as well as to continue to develop healthcare ecology and to adopt a new Public Health Development Strategy, which we have recommended as of 2016. The amendments to the Decree on Environmental Interventions Impact Assessment, which have made human health a mandatory content of the Environmental Impact Study since 2017, are positive and should be carefully monitored by the MEE.

Waste management

"We presented evidence in the case of the degradation of environmental standards for water and waste regulations... the location planned for the Waste Management Centre (WMC) in Lećevica municipality ranks as 2nd water conservation grid, even without a survey... yesterday (31 May 2017) the Split-Dalmatia County announced pressing criminal charges against activists who "disturb" the public by claiming that the zoning has not been done properly and professionally ..."

In 2017, the situation with the existing landfills was worse than in 2016, especially with Karepovec and Lončarica Velika. According to data provided by the Environmental Protection and Energy Efficiency Fund (EPEEF), in 2017 there were no payments to co-finance the

rehabilitation program of these two landfills. The Lončarica Velika rehabilitation should have begun in January 2018, while the first of the three stages of Karepovac's rehabilitation began in late 2017.

Karepovac is a non-harmonised landfill with no environmental permit since 2016, but Čistoća ltd Split has a waste management license by the end of 2018. The environmental inspection found that the fire at the landfill that broke out in July was extinguished with water from water trucks and covered with inert earth material, and the water-administration inspection did not detect any irregularities. As we wrote in the Report for 2016, the Lončarica Velika landfill is 305 meters away from the houses, which is considered in the 2016 Environmental Permit as a state of affairs and as such, an insufficient reason for its termination, while at the end of 2017 the operator, Unikom ltd, submitted a request for the amendment of the Environmental Permit, inter alia, for the construction of a new surface for waste disposal.

The justifiability of constructing planned county waste management centres should also be established in feasibility studies, and it is necessary to carry out a revision of the envisaged sites as well as the environmental impact assessment.

The New Waste Management Plan of the RC 2017 to 2022 was adopted in early 2017 and envisages conducting feasibility studies for planned county waste management centres, in which all the measures would be presented that need to be implemented in the wider area of their coverage in order to justify the planned capacity. According to MEE data, the CWMC Mariščina started operating in 2017, while the CWMC Kaštijun is due to open in the first half of 2018, and the feasibility study is being conducted for another four CWMCs (Babina Gora, Lećevica, Piškornica and Lučino Razdolje), whereas for the remaining three (Orlovnjak, Šagulje-Ivik and Zagreb) it should be conducted in 2018.

Given that the Plan establishes a municipal waste management system that encourages the prevention of waste generation and separation at the site of production, its infrastructure must also ensure this. Feasibility studies for the planned CWMCs should serve as a control mechanism to ensure a consistent application of environmental protection, sustainable development and prioritisation of waste management, while addressing the dangers of existing non-harmonised landfills. Environmental associations find that some county centres are unnecessary and advocate a revision of the justification for the construction of all planned centres, which we support, and we certainly deem it necessary to carry out a revision of the envisaged sites and to conduct an environmental impact assessment, including an assessment of the impact on health.

RECOMENDATIONS:

171. To the Ministry of Environment and Energy, to make a comparative analysis of the Global Sustainable Development Goals of the United Nations with national policies and indicators and to define a new Sustainable Development Strategy;
172. To the Ministry of Environment and Energy, to complete the Environmental Protection Plan in accordance with the Code of Conduct for consultations with the interested public and in line with environmental principles;

173. To the Ministry of Environment and Energy, to enhance the supervision of authorised persons to carry out professional environmental affairs, particularly in relation to data accuracy and on-the-spot checks;
174. To the Ministry of Environment and Energy, to ensure soil monitoring and to introduce monitoring measures, including mandatory sampling into the environmental interventions impact assessment procedures,
175. To the Ministry of Environment and Energy, to request an obligatory submission of decisions in OPEM procedures to the CAEN and to strengthen professional capacities for Natura 2000 network management;
176. To the Ministry of Environment and Energy, to provide compensation for impaired quality of life to citizens living in the immediate vicinity of the projects which are a source of noise or affect the environment;
177. In accordance with the Waste Management Plan and the Code of Conduct of Consultations with the Interested Public, the Ministry of Environment and Energy shall draw up all feasibility studies for the planned CWMCs, including the revision of envisaged locations, and an assessment of the impact on the environment and health;
178. To the Ministry of Health, to ensure conducting of professional study on the impact of the landfills of Karepovac and Lončarica Velika on citizens' health, which will include air, water and soil sampling and to take measures to protect their health;
179. In order to ensure further development of the health ecology and in cooperation with the Ministry of Environment and Energy, the Ministry of Health shall introduce a mandatory Health Impact Assessment (HIA) prior to planning of the construction of large industrial and other infrastructural facilities;
180. To the Ministry of Health, to complete the Public Health Development Strategy;
181. To the Ministry of Health, in cooperation with the Ministry of Finance, to ensure more effective supervision in the cases of complaints against noise from unregistered activities;
182. To the Ministry of Health, in cooperation with the Ministry of Environment and Energy and the Ministry of Construction and Physical Planning, and in accordance with the Code of Conduct of Consultations With the Interested Public, to develop a new Ordinance on the Protection of Electromagnetic Fields and to publish a list of sources of electromagnetic fields in the form of registers;
183. To the Ministry of Construction and Physical Planning, to record and supervise the issuing of inspection licenses for base stations of mobile operators and consider regulating other permits from its scope of work;
184. To the Croatian Institute for Public Health, to cover the influence of floating particles and gases in the study on the impact of environmental factors on the health of citizens of Slavonski Brod;

3.30. CLIMATE CHANGE, CIVIL PROTECTION SYSTEM, FIRE-FIGHTING AND PROTECTION OF HUMAN RIGHTS – THE FIRE IN SPLIT

Climate changes are here: extreme weather disasters are happening, icebergs and snow are melting, temperatures and mean sea levels are on the rise, the main cause for it all being an increased concentration of greenhouse gases. The Paris Accord seeks to reduce their emissions by shifting from fossil fuels to clean energy sources, which will improve air quality and positively affect the environment, nature and health, as detailed in the chapter on the right to a healthy life.

National Protection and Rescue Directorate (NPRD) estimates say that the 2017 summer season was one of the most challenging in the past few decades, as the number of fires and the flights of fire-fighting airplanes, and the amount of water spent for their extinguishing, was even three times higher than in 2016. Due to extreme weather conditions and due to its scale, the fire that swept through Split in July, along with other fires, can be linked to the climate change, and an increase of all other extreme disasters, such as drought, hailstorms, floods and others is being anticipated.

The non-budgetary civil protection fund has not been established yet, which would secure the provision of financial means for protection and rescue in major calamities and disasters and would contribute to the harmonisation of the quality of civil defence systems at the local, regional and state levels.

It is important, therefore, to revisit the experiences from the flood that hit the area of the Vukovar-Srijem County in May 2014, and the Government of the RC for the first time ever passed a decision proclaiming a catastrophe with human casualties. Based on citizens' complaints, field visits, analysis of the regulations and other data, we familiarised the Croatian Parliament with the scale of the catastrophe from the human rights perspective in a separate report by the Human Rights Ombudswoman on the Flood-related Catastrophe in the Vukovar-Srijem County. Although the Report referred to the specific situation and its consequences, its recommendations may be applied to all other crisis situations and their consequences that may affect the level of human rights, such as the right to life and health, the right to access to information or property rights, as well as the preservation of nature and environment; the recommendations relate to the protection and rescue systems, the social welfare and health care, humanitarian aid, rehabilitation and reconstruction, information and free legal counselling.

In August 2015, the Civil Protection System Act with the action framework in emergency situations and a series of subordinate regulations came into force, regulating the civil protection system in detail and establishing it at the local, regional and state level, taking into account financial capabilities of diverse units, their equipment, training, coordination, and their preventive actions and response. In its drafting, the Ombudswoman's suggestions were accepted on the importance of providing a timely and accessible public information, aligning the quality of the system at the local, regional and state level with regard to the financial capabilities of the LRGUs n the ASSC, and an anti-discrimination provision has also been introduced as a principle. According to the NPRD data from August 2017, the establishment of a non-budgetary civil protection fund that would ensure financial resources for the protection and rescue in major calamities and disasters, has not yet happened. Unfortunately, the obligation to maintain a unique database of vulnerable persons was

not introduced, nor was the concept of public shelters defined, as we suggested at that time. Even so, the co-operation of the Ombudswoman with the NPRD is an example of a good practice, both because of a good communication and they accept most of the proposals that are vital for the promotion of human rights protection.

The civil protection system serves to prevent the consequences, but also to provide a timely response to climate change and other threats that may endanger security and human lives, health, the environment, nature, cultural wealth and property. In accordance with the current law, it encompasses the entire state system, from the bodies at the local, regional and national level to the armed forces and the police, and its core operational forces are the operational firefighters, the Croatian Mountain Rescue Service (CMRS) and the Croatian Red Cross (CRC). Citizens are also an essential part of it, they are obliged to implement personal and mutual protection measures and to participate in the activities supervised and coordinated by the NPRD.

The fire brigade system is part of the civil protection system, but it is regulated by the Act on Fire-fighting, according to which the MI conducts administrative supervision and controls exercising of public authority in the work of fire-fighting units, while the professional supervision of their work is carried out by the NPRD and the expert supervision of both the work of the public fire brigades and voluntary units can also be run by commanders of firefighting associations. The Croatian Fire-fighting Association (CFA) is an umbrella organisation that brings together all the fire brigades, organisations and units in the territory of the RC. Apart from the fact that the fire-fighting service is divided between the MI, the NPRD and the CFA, that is, there is no single body that manages it, it is further complicated by its subdivision into the public units and the voluntary units, which differ by the status and have different responsibilities. Furthermore, the implementation of the Fire Protection Act is supervised by the MI, while the costs of equipment, education and training of firefighters are covered by the LRGUs.

The fire-fighting service is divided between the MI, the NPRD and the CFA and there is no single body managing it. What makes it even more complicated, is the division into public units and voluntary units, which differ in their status and responsibilities, and that, among other things, points to the need for the changes in the legislation and subordinate legislation regulating the fire-fighting system.

The Civil Protection System and the Fire-fighting System are not sufficiently lined-up at both the legislative and the operational level, which became obvious in the case of the fire in Split, which was also, due to its scale, a crisis situation in which both systems and their headquarters should have been activated.

According to NPRD data, the Split fire broke out at 00:42 on 17 July, in the area of Srinjina-Račnik, spread to the settlements of Sitno Donje and Gornje, Žrnovnica, Perun, moved into the town of Split and blazed through buildings in Dračevac and Kamena, as well as through the Karepovac landfill and was contained by 11:00 on 19 July. Although the conditions were met for the fire to be proclaimed a large-scale calamity in line with the Civil Protection System Act – not only because it was caused by a sudden act of natural forces, subsequently endangering the health and life of the citizens, the material and cultural goods and the environment, but also because the fire-fighting units from all over the country were put to action, as well as the armed forces and the police - still, a

natural disaster was proclaimed in line with the Natural Disasters Act. According to their definitions, the natural disaster and the large-scale calamity are similar by their significance, and in the opinion of the NPRD, by proclaiming one, one should automatically proclaim the other, which was obviously avoided because of the cost. Namely, when a large-scale calamity is proclaimed, the civil protection system gets activated at the expense of the claimant, except when the NPRD, on the basis of the principle of solidarity, employs operational forces from the lower tier system, which was not the case here.

We feel a great respect and have a deep appreciation for members of the fire-fighting units, armed forces, the police, civil protection and the citizens, as well as for all other persons, associations and institutions who have taken part in extinguishing the fire in Split and other fires in 2017, thus preventing even more serious consequences.

At the end of 2017, the Government adopted the Decision on the allocation of emergency aid funds to mitigate the consequences of the following natural disasters that occurred in 2017: gale-force winds, gale-force bora, droughts, hail-storms, fire and floods. The total amount allocated to 19 counties was HRK 99,513,977.00, with the amount for the claims regarding working assets in agriculture being set at 5.4% of the confirmed damages, for the housing structures, communal and road infrastructure at 21% of the confirmed damages, and for the confirmed cost incurred by legal entities in the defence against natural disasters, care for the population and health care, in full amount of the confirmed damage. Of this, 70% are allocations for the damages in agriculture and 30% for other damages. However, these funds cover only for a small part of the incurred damage and reported costs, which again confirms the need of establishing a non-budgetary fund to deal with major calamities and disasters. A more precise definition of the criteria for determining the types of extraordinary events would also be needed, as well as to reconcile the ways of deciding on proclaiming a catastrophe, a large-scale calamity, or a natural disaster.

Furthermore, the mayor of Split came out with the statement that the city's unpreparedness reflected in the existence of wild dumps with hazardous waste and of uncultivated areas, but also in the lack of the hydrant network in suburban settlements, which are not yet fully urbanised.

In the course of 2017, in a hamlet in the municipality of Muć in the Split-Dalmatia County, where the police administration had requested an obligatory installation of the hydrant network as far back as in 1998 in order to organise for a stable fire protection system, it was established that it was still not installed, despite a new water supply system having been completed in 2017; ignoring the obligation to install pressure boosters, the argument they provided for the mistakes was that it was not possible to meet the minimum technical requirements for flow and pressure. It is also problematic that, despite our multiple recommendations, the inspections did not perform field supervision. The question is how many other cases there are of a failure to install, and/or malfunction, or inaccessibility of the hydrants, which are important in fire protection, especially in the counties that are extremely exposed.

At the time of submitting this Report, the Croatian Forests are conducting a public procurement procedure for setting up a video surveillance system in the entire area under the Split Forest Management Field Office (FMFO), trying to secure the funds for the needs of the observatory-alert

service and carrying out promotional activities, which should add to the prevention which is, alongside with the standby and response, an initial step in the civil protection system.

The fire in Split indicated that prevention needs to be further improved, although there is a Preventive-Operational Department in the Public Fire Department of the City of Split, which until 2017 held a series of training exercises and implemented fire protection measures within residential buildings. According to information available to us, it is the only preventive department within a public fire brigade, and everyone needs it, as firemen themselves pointed out. Voluntary fire-fighting units also work a lot with the youth, which is extremely important for their sustainability; given the dangers we are exposed to and the crucial role of timely and quality education on prevention, the training exercises should be carried out systematically in all primary and secondary schools, as well as public institutions. The spontaneous self-organisation, solidarity and quick response of the citizens of Split and of the whole country largely prevented even more serious consequences of the fire and substituted for the system's shortcomings. In some locations, the fire was extinguished by citizens only, who lack adequate knowledge and equipment, which should not be happening in well-organised and efficient systems of civil protection and fire-fighting.

Spontaneous self-organisation, solidarity and a swift reaction of the citizens of Split and the whole country has substituted for the shortcomings in the system and has largely prevented even more serious consequences of the fire. At some locations, the fire was extinguished by citizens only, who lack an adequate knowledge and equipment, which should not be happening in well-organised and efficient systems of civil protection and fire-fighting.

In conclusion, before the fire moved into the city and started spreading, there was an apparent problem of the lack of information to citizens. Namely, alerting and notifying the public are the first measures to be taken by the partakers in the civil protection system at all levels. Citizens should be informed about potential dangers they are exposed to, on how to protect their lives, health and property, as well as on where from and when the help will arrive. The lack of timely information caused fear and uncertainty in most of the citizens but it also encouraged them to come out in public. At the protest rally on 24 July 2017, the ad hoc civic initiative "Split is burning" thanked the firefighters and all those who helped contain the fire, and cautioned of inadequate spatial planning that neglects the perimeter of the city, as well as of the problems with the waste management and possible health hazards that are not adequately taken care of.

Given the listed problems, it is important to continue to work on enhancing the civil protection and fire-fighting systems in order for both to be effective and mutually compatible, with clearly defined lines of command and responsibility. It is particularly important to adequately evaluate the basic operational fire-fighting forces, which are at the same time the fundamental forces of the civil protection system. It is crucial to strengthen the status of firemen, in order for their work and engagement to be adequately valued, but also safe, given their responsibilities and duties they perform.

After the fire season 2017, a comprehensive analysis was carried out and according to the NPRD data, it showed 93 deficiencies/problems and gave 126 improvement suggestions and the emphasis was placed on 15 short-term measures to improve the 2018 season. Among them are additional training of operational forces and providing equipment, drawing up guidelines for the inclusion of

civil protection staff in large and catastrophic fires, and a number of other operational measures that should be implemented until the start of the new fire season in coordination of all competent institutions.

RECOMMENDATIONS:

185. To the Government of the RC, to set up a non-budgetary Fund for Action in Major Disasters and Catastrophes;
186. To the National Protection and Rescue Directorate, in cooperation with the Ministry of the Interior, the Ministry of Defence, the Ministry of Environment and Energy, the Ministry of Agriculture and other stakeholders in the civil protection system, to consider the need for changes of legislation and subordinate legislation in the civil protection system in accordance with the Code of Conduct of Consultations with the interested public, including the alignment of criteria for types of incidents;
187. The Ministry of the Interior and the National Protection and Rescue Directorate, shall, in cooperation with the Croatian Fire-fighting Association and the Croatian Professional Fire Brigade Association, prepare proposals for necessary changes to the laws and subordinate legislation in the fire-fighting system in accordance with the Code of Conduct of Consultations with the interested public, which should include the following: an integrated fire-fighting system, the establishment of departments for prevention within the fire-fighting units, regular education and training programs, providing for adequate equipment and regulation of firefighters' status;
188. To the Ministry of Science and Education, in co-operation with the National Protection and Rescue Directorate and other stakeholders, to introduce systematic education on protection and rescue in elementary and secondary schools;
189. To the Ministry of the Interior and the State Directorate for Protection and Rescue, in cooperation with other stakeholders to introduce systematic education on protection and rescue in all public institutions;
190. To the Ministry of the Interior, to enhance fire-fighting inspections by field visits and inspections of fire protection plans, especially in the vulnerable counties;
191. To the Ministry of the Interior, to conduct supervision of the hydrant network for extinguishing fire, particularly in the vulnerable counties;
192. To Croatian Forests, to ensure video surveillance in the area of the entire Split FAFO, as well as other fires in vulnerable areas until the beginning of the 2018 fire season.

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

4.1. THE PRISON SYSTEM

Persons in the prison system are deprived of their liberty, but they still enjoy fundamental human rights enshrined by the Constitution, legal acts and international legal documents. Nonetheless, they are often subject to different restrictions during their stay in prison. When analysing their complaints, our basic task is to determine whether the restrictions and treatments on the basis of which they file their complaints are proportional to the reasons for which they are implemented and whether they are crucial to achieve the goal as set by the law or, alternatively, whether they go beyond the inevitable suffering caused by deprivation of liberty.

The basic task is to determine whether the restrictions and treatments are proportional to the reasons for which they are implemented and whether they are crucial to achieve the goal as set by the law or, alternatively, whether they go beyond the inevitable suffering caused by deprivation of liberty.

Unlike reactive approach to handling complaints, preventive visits of penal institutions that we make within the National Preventive Mechanism (NPM) aim to strengthen the protection of persons deprived of liberty and prevention of torture and other acts of cruel, inhuman, or degrading treatment.

In 2017, we received 136 complaints, carried out 31 field investigative procedures and visited nine penal institutions.

4.1.1. Complaints filed by persons deprived of liberty in the prison system

Most of the complaints addressed the quality of healthcare, treatment by officers and accommodation conditions. The fact that the majority of complaints filed to the Central Office of the Prison System and Probation Directorate with the Ministry of Justice (COPSPD) dealt with the same problems confirms the fact that these problems cause most dissatisfaction among prisoners[12]. In 2017, the number of complaints addressing the work of the treatment department was on the increase. In addition, prisoners complained about the effectiveness of legal protection and violation of their right to contact with the outside world.

The nature of the complaints against the quality of healthcare, as indicated in our previous reports, did not change in 2017. Prisoners complain that doctors in certain penal institutions refuse to grant them access to their medical records or provide them with the copies. This was the case of the Pula prison, for example.

[12] In this chapter, the term COPSPD shall be used as an acronym to denote the administrative unit of the Croatian Ministry of Justice that, *inter alia*, manages administrative and professional affairs regarding the prison sentence serving, execution of remand imprisonment and the so-called educational measures of referral to the juvenile correctional institution (JCI), regardless of the date of the entry into force of the Regulation on Internal Structure of the Ministry of Justice (Official Gazette NN no. 98/17), amending its name and scope of work.

Taking into account the fact that the prison transport system still relies on old special purpose vehicles, with side benches, insufficient lights, poor ventilation and without seatbelts, if prisoners with poor health find out that they will be transported to a medical check in external medical institutions in these vehicles, they sometimes refuse to undergo such a drive altogether. Prisoners with back problems who have to lie on old mattresses of poor quality are not allowed to get new mattresses on their own (since penal institutions cannot provide them with one) and as a result, they are often forced to take painkillers. They also complain that the time of therapy distribution does not match their needs. For instance, in some penal institutions, they have to take sleeping pills hours before they go to bed.

,,...I don't smoke and I can't stand the smell of cigarette. The only place where I could read the papers was the common room with a TV and people could freely smoke in there. I noticed that prisoners had left the common room so I asked the prison guard to give me the papers because I don't smoke and I don't go to the common room. He told me he wasn't a mailman and that if I wanted to read the papers, I had to go to the smoking common room. Given that this type of bickering was pretty common ever since I had come to this prison, I told him that the chief prison officer allowed me to have the papers delivered to my room and, if he didn't believe me, he could check it with him...The prison officer retorted that it wasn't up to me to tell him what to do or how to do it, he unlocked the bars, approached my bed and emptied a whole pepper spray into my face!!! Feeling stunned, I realized that they took my clothes off, put the legcuffs and handcuffs to my ankles and wrists and threw me into the so-called "rubber room", but since I fainted, soon enough, they took me out and brought me back to my cell... They took me to the rubber room on two more occasions. So, instead of the papers, all I got was a spray, cuffs and a rubber room... Not to mention two additional disciplinary proceedings..."

Furthermore, some of the complaints addressed the accommodation conditions. For example, non-smokers objected they occasionally had to share the room with smokers and this was especially bothering those administered to the Zagreb Prison Hospital. Prisoners also indicated that the Rijeka Prison had problems with the heating because radiators were not getting hot enough after 4 pm. A prisoner who, due to the spine problems, had been experiencing pain and difficulty moving, objected to the fact that he had been accommodated to the upper floor of the Zagreb Prisons not equipped with an elevator. As a consequence, he did not spend much time outdoors.

Prisoners still complain about the time it takes to handle complaints filed against decisions made by the head of prison. In several cases, it was after the period of placement to special supervision department that the executing judge decided on a complaint against the placement decision.

Very often, prisoners pointed to the limited opportunities to talk to the treatment officials. In addition, they were dissatisfied with transparency of the assessment process and the procedure of granting benefits, noting that they relied on discretionary decisions.

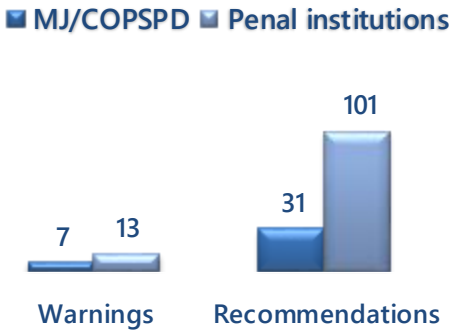
Prisoners still complain about the time it takes to handle complaints filed against decisions made by the head of prison. In several cases, it was after the period of placement to special supervision department that the executing judge decided on a complaint against the placement decision, which is

a practice that cannot be tolerated. Taking into consideration judicial independence, we have warned the Supreme Court against such practice, which was in breach of the Article 18 of the Croatian Constitution and made any complaints-filing system completely pointless. We expect such a practice to end after, according to the available information, county courts executing judges were warned against not respecting the deadlines, during a joint meeting.

By acting on prisoners' complaints, we have noticed that telephone numbers of non-family members were not registered in the phone registry of the allowed numbers, even though such a practice is not based on the Execution of Prison Sentence Act (EPSA). The guideline issued to all penal institutions by the COPSPD, in line with our recommendation, stating that permission to make phone calls covers both family and non-family members and that the fact that a prisoner has family members does not preclude the possibility for a non-family member to be included in the list, should have positive effects on exercising the right to maintain contact with the outside world.

4.1.2. NPM activities in the prison system

In 2017, we visited County Prisons in Bjelovar, Dubrovnik, Gospić, Karlovac, Osijek, Zadar and Zagreb, as well as Glina and Lepoglava State Prisons, without prior announcement. All NPM visits were regular, except the one to the Osijek County Prison, made to establish to what degree the warnings and recommendations issued after the previous visit had been implemented. Independent experts took part in four visits, representatives of the Office of the Ombudswoman for Persons with Disabilities participated in two of them and representatives of the Office of the Ombudswoman for Gender Equality and of the Ombudswoman for Children were involved in one visit.



In order to promote prevention of torture and other acts of cruel, inhuman, or degrading treatment or punishment, the reports prepared after the visits included 20 warnings and 132 recommendations. The evaluation of their implementation will be made after all the feedback has been received and control visits have been carried out.

Accommodation conditions

Although, according to the records of the COPSPD, the occupancy rate in the prison system as of 31 December 2017 stood at 82.69%, accommodation conditions have still not been aligned with the standards. On that day, seven high security penal institutions accommodated more persons compared to the legally defined capacities. This was especially true of the Osijek County Prison, with 159% occupancy rate.

Persons serving the prison sentence within the misdemeanour proceedings (offenders) or persons subject to detention in line with the Misdemeanour Act are accommodated in especially poor

Persons serving the prison sentence within the misdemeanour proceedings (offenders) or persons subject to detention in line with the Misdemeanour Act are accommodated in extremely poor conditions.

conditions. For instance, in the Zagreb County Prison, the room for offenders is packed with 24 beds. Compared to the room size (89.3 m^2), this number exceeds the legally allowed limit by two beds. In addition, joint accommodation of a large number of persons is contrary to the position of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) because such conditions increase the risk of prison violence and cannot provide for privacy. This also applied to the Karlovac County Prison where, during our visit, nine offenders were accommodated in a room 26.33 m^2 in size. Given that it was furnished with 10 beds, its total size should equal 40 m^2. Furthermore, beds are only 45 cm apart, not enabling a minimum level of privacy. Rooms often lack chairs and tables so offenders are forced to eat in their beds that they occupy 22 hours a day. Due to the lack of bedside tables, some of them keep their personal belongings in bin bags or boxes that they keep under the bed. In both of these prisons, lavatories are not completely separated from the rest of the room and this makes the living conditions even harsher. During the visit to the Karlovac County Prison, an offender said that, after being put in a room in which everyone smoked, he took on smoking again, even though he quit several years ago. Serving prison sentence in such conditions represents breach of their rights and is degrading, which is why they have to be aligned with legal and international standards without delay.

Due to inappropriate accommodation conditions, some small prisons, for example, Zadar and Karlovac County Prisons, cannot provide for different organized free-time activities. Prisoners spend 22 hours a day locked in their rooms. In other words, they serve their prison sentence as if they were executing remand imprisonment.

During the field visits, special attention was paid to the quality of food available in the Bjelovar and Dubrovnik County Prisons. Standard menus contain information about energy content for each of the three meals, as well as the total energy content of a daily menu. No energy content is indicated for diet menus and additional meals. The Bjelovar County Prison does not apply written norms for preparation of food served in line with the diet menu. On the other hand, the Dubrovnik County Prison does not take into account all the parameters. In this context, it is not clear how doctors' dietary guidelines are taken into consideration for each individual health problem to control the disease and/or alleviate the symptoms thereof. A doctor determines a diet plan and employees working in a prison kitchen are issued written guidelines on the appropriate diet for certain medical conditions, but it seems that they do not comply with them.

Treatment work with prisoners

Insufficient number of officials working in the treatment departments has negative effects on respect of prisoners' rights. For instance, in order to ensure the minimum conditions for smooth work of the treatment department in the Glina State Prison, at least three officials have to be employed urgently. In case of high security prisons and the Lepoglava State Prison, enough treatment officials of relevant professions have to be provided for (psychologists, social pedagogues, social workers) since these prisons accommodate prisoners serving long-term prison sentence, high-risk prisoners and recidivists. As a rule, recidivists are not separated from prisoners serving their first sentence. This is not in line

with the Execution of Prison Sentence Act (hereinafter: EPSA). Plus, such a practice makes treatment work even more difficult.

Treatment officials usually talk to prisoners without judicial police officers being present. In some penal institutions (e.g. the Glina State Prison) each ward includes a special room for this purpose and generally, the conversations are enabled for all prisoners who apply. This is not the case in small penal institutions, e.g. the Karlovac County Prison, in which treatment officials have to talk to the prisoners in the judicial police's dining room.

Lack of treatment staff has negative effects on their presence in prison wards and prisoners often complain that their talks are too short. In some prisons, e.g. the Bjelovar County Prison, prisoners on remand were not even aware of the fact that they can apply to have a talk with the treatment official. On the other hand, in the Zadar County Prison, they are invited to such meetings immediately upon their arrival. Such a proactive approach represents a good practice example, also applied by the treatment official of the Dubrovnik County Prison.

Treatment work is difficult due to the insufficient treatment staff - in some penal institutions available treatment officials cannot cover the minimum conditions of work. This fact is even more exacerbated by inappropriate accommodation conditions and practice whereby, as a rule, recidivists are not separated from the prisoners serving their first sentence.

Compared to other penal institutions, security measures of compulsory psychiatric treatment and compulsory addiction treatment are much more easily implemented in the Glina State Prison given a full-time employed psychiatrist.

Available free-time activities are not diverse. Objective factors come into play in terms of their organization (insufficient premises, poorly equipped workshops, lack of brushes and paints, computers are in poor condition etc.). Some prisons do not even ensure organized free-time activities so persons deprived of liberty have to take initiative to organize them on their own, for example in the Bjelovar County Prison.

Apart from managing treatment groups of prisoners, treatment officials carry out special programmes established within individual programmes of execution of prison sentence, depending on the assessment of prisoners' criminogenic risks and treatment needs. For instance, 25% of prisoners in the Lepoglava State Prison are involved in different special programmes, such as modified clubs of treated alcoholics, treated addicts, PTSD treatment etc. Yet, due to the data confidentiality issues in terms of information that they might disclose during these meetings, some prisoners refuse to take part in programmes managed by treatment officials who are obliged to report serious disciplinary breaches, so prisoners might think that these programmes are not very useful since they cannot speak up openly.

Due to the lack of treatment staff, some prisons, for instance, the Bjelovar County Prison, do not organize special programmes that require group work. Others (the Karlovac County Prison) do not organize these programmes very frequently given the low turnout of prisoners who could form a group. The Karlovac County Prison serves as a good role model in terms of cooperation between the

treatment and security departments: treatment work is carried out by one official only, so two judicial police officials help him in implementing the *Driver as a Safety Traffic Factor* special programme.

Despite large demand, in general, programmes of completion of primary education for prisoners are not being implemented for participants over 21 because penal institutions are not legally obliged to carry them out. The Dubrovnik County Prison organizes English and IT lessons (these courses are in high demand) and plans to organize these lessons for prisoners on remand as well. This practice could be a good model to follow given the significant lack of activities for this group of prisoners. Also, the same prison allows them to join the clubs of treated alcoholics and treated addicts.

Some of the prisoners are extremely dissatisfied with performance evaluation of implementation of individual programmes of execution of prison sentence because they think that the criteria is biased and the evaluation process is not transparent enough so they do not know what aspects of their behaviour should be modified. This is understandable, given the fact that their potential benefits depend on performance evaluation ("assessment"). In some prisons, for instance the Karlovac and Zadar County Prisons, heads of prisons adopt written decisions on performance evaluation of implementation of individual programmes of execution of prison sentence for each prisoner and the accompanying benefits granted on the basis of the evaluation. This might be a good practice example, since it ensures data transparency and quick feedback to prisoners regarding the performance evaluation of implementation of their individual programmes and the scope of granted benefits.

Some of the prisoners are extremely dissatisfied with performance evaluation of implementation of individual programmes of execution of prison sentence because they think that the criteria is biased and the evaluation process not transparent enough.

Most of the penal institutions do not prepare operational plans for prisoners at higher risk of suicide. This is not the case with the Lepoglava State Prison with 101 prisoners deemed at risk of suicide. A special operational plan has been developed for each prisoner, accompanied with intense supervision of the treatment official and increased security supervision. Nonetheless, officials working at other wards are not familiar with special procedures from the operational plan in order to prevent suicide among prisoners and/or are not familiar with risk factors for suicidal behaviour so they might deny the danger of situation and minimize the risk by describing the suicidal behaviour of a prisoner as his manipulation.

Maintenance of order and security

According to records of the COPSPD, 1,647 special measures for maintenance of order and security were implemented in 2017 and this represents a 7% drop compared to 2016. Records are still not being kept in a continuous manner. Plus, there are some differences in terms of how different institutions record these measures. Unlike Glina, the Lepoglava State Prison did not record the measure of increased security supervision of prisoners at risk of suicide, which does not represent a good practice example because implementation of a measure must be entered into records, regardless of the reasons for its adoption. Also, during our visits, we have noticed that instances of restraining were often not entered into records, especially when applying means of coercion, as indicated in our previous reports. We have warned the COPSPD against irregularities and

inconsistencies in terms of collecting information about implementation of special measures because they were extremely important for evaluation of treatment of persons deprived of liberty and respect of their rights.

Despite the decrease in the total number of implemented measures, the severest special measure - isolation - was implemented in 19 cases, which represents a 73% increase compared to 2016. In the majority of cases (15 out of 19) it was implemented in the Lepoglava State Prison that, in accordance with the Framework Measures for Referral and Categorization of Prisoners for Execution of Prison Sentence, accommodates high risk prisoners and recidivists. Although the EPSA lays down a provision according to which implementation of a measure shall be suspended if reasons for which it was adopted no longer apply, isolation is mostly implemented for the maximum period of three months. This shows that the need for its implementation is not considered frequently enough or in detail. Furthermore, medical supervision of the isolation measure is still not being carried out in line with the EPSA that stipulates medical checks of prisoners in isolation twice a week. For instance, during the visit to the Lepoglava State Prison, we found out that the isolated prisoner had not undergone a medical check for two months – such a practice is unacceptable bearing in mind potentially detrimental effects on his mental health. In addition, it is not clear how a head of prison can fulfil his obligation to propose suspension of the isolation measure to the executing judge on the basis of a medical opinion if prisoners covered by the measure are not subject to a medical check for two months.

Also, the time span between the incident that brought to implementation of the measure and the beginning of the implementation is rather problematic. For example, the prisoner in isolation during the visit to the Lepoglava State Prison said that he had gone into a fight with another prisoner and due to that incident, isolation measure had been proposed, the implementation of which lasted for a month. After the implementation had ended, he was referred to the ward under increased security supervision. One month after the incident had broken out, the State Prison was issued with a decision by the executing judge requiring isolation, but since no free rooms were available in the relevant ward at the time, the implementation began two months later. In the meanwhile, a statute of limitation was enacted for the disciplinary proceedings brought before the prisoner. This brings into question the necessity and, consequently, lawfulness of this measure. One can get the impression that this was not the case of a special measure for maintenance of order and security but rather a punishment for disciplinary breach. The fact that less severe special measures had successfully been implemented between the incident and the implementation of the measure since he had not posed a threat to order and security, illustrates this fact.

Inconsistencies in terms of giving orders and implementation of special measures, as indicated in our previous reports, still represent a problem. For example, unlike the Lepoglava and Glina State Prisons, the Zadar County Prison does not submit written decisions on isolation of prisoners. In other penal institutions, e.g. the Požega State and County Prison, decisions are not even formally adopted. Inconsistencies prevail when it comes to accommodation, in particular regarding the room with special security without dangerous items. According to records of the COPSPD, in 2017, this measure was implemented on 30 occasions, mostly (13 cases, 43%) in the Šibenik State and County Prison with

The most severe special measure - isolation - was implemented in 19 cases, which represents a 73% increase compared to 2016.

the capacity of 119 persons. On the other hand, in the Zagreb County Prison, the largest penal body with the capacity of 626 persons, this measure was implemented only once. In the case of the Lepoglava State Prison (capacity 542 persons), the measure was not implemented at all in 2017. Eight out of 21 state and county prisons do not have such a room in the first place and this is also a cause of inconsistencies in the prison system.

Implementation of the measure "isolation from other prisoners" that is not implemented under supervision (as in accordance with the EPSA) and that does not require a special medical approval, is sometimes used in case of prisoners at risk of suicide. For instance, during the visit to the Lepoglava State Prison, one prisoner had been isolated, although, according to his Operational Plan of Activities to Prevent Suicide, *inter alia*, permanent stay in a group with other prisoners was to be provided for. Since isolation can have the opposite effect in these situations, it is better to avoid it as a special measure.

During our visit to the ward under increased security supervision, prisoners complained about the lengthiness of this measure because they thought that the need to extend its duration had not been examined in detail. They added that they did not find the criteria used to return to other prisoners clear enough. This problem was pointed out by the CPT in its 1998 report for Croatia. In addition, prisoners covered by this measure have very little scope of free-time activities. Potential educational activities are also limited, whereas their involvement in treatment activities becomes less intense compared to other wards. It must be emphasised at this point that some of the prisoners have been accommodated in this ward for over 10 years. Nonetheless, shortly after our visit to the State Prison, some positive moves have been made. For instance, prisoners have been involved in work programmes and officials employed at the treatment department have been engaged more intensely. These are promising signs.

When asked to assess the behaviour of judicial police officials in anonymous surveys and on the basis of the conversations that we had during our visits, the majority of persons deprived of liberty had a positive opinion about their conduct. Yet, the respondents pointed out that some individuals did not behave in a professional manner and that they derided and insulted them. Such a practice created negative impression about the work of the entire security department. Since unprofessional behaviour leads to breaches of rights of persons deprived of liberty, as well as underestimation of the efforts and professional conduct of their colleagues performing this demanding task, these allegations should be analysed in detail.

According to records of the COPSPD, means of coercion were applied in 46 cases, which represents a 19% decrease compared to 2016. The mace spray with allowed harmless substances was used on 25 occasions, while the acts of bringing in and defence techniques were applied in 21 cases. These means of coercion were mostly applied in the Šibenik State and County prison (on 11 occasions). In case of two largest penal institutions, they were applied in five cases – on two occasions in Zagreb and three times in Lepoglava. This is not necessarily indicative of higher repression in the relevant penal institutions, but it does call for evaluation of uniform procedures in the prison system. Records are kept regularly and all prisoners subjected to the use of means of coercion were examined by a physician.

During our visits of penal institutions, prisoners complained of unclear or trivial reasons for use of means of coercion. For instance, one of them stated that a mace spray with allowed harmless substances was used against him because he opposed the judicial policeman when asked to put the cigarettes in the glove compartment before being brought to the courtroom. He also added that some judicial policemen had previously allowed him to take cigarettes with him to the court and that, as a rule, he had done that. Although the fact that prisoners are requested to obey legitimate order by an authorized official should not be brought into question, it is not clear to what degree inconsistent treatment on the part of judicial policemen affects prisoners' behaviour.

As a rule, assessment of lawfulness of use of means of coercion is still based on allegations given by judicial policemen, raising issues regarding their impartiality. For that reason, for example, the Zadar County Prison could be a role model to other prisons in that respect: in this prison, the use of means of coercion was considered unjustified due to the error on the part of a judicial policeman who had not been in the ward where two prisoners got into fight.

Disciplinary proceedings against prisoners on remand

Due to shortcomings of the Criminal Procedure Act, prisoners on remand are put in a more difficult position compared to prisoners serving a prison sentence. Restrictions in terms of visits and correspondence are the only type of disciplinary proceedings that may be brought before prisoners on remand, without reference to punishment or the relevant persons covered by restrictions. On the other hand, the EPSA does not lay down provisions allowing for restrictions of contact with family members. Prisoners covered by the severest form of disciplinary proceedings – solitary confinement – may thus maintain contact with family members and receive visits. Furthermore, in some cases, prisoners on remand were subject to disciplinary proceedings in terms of restrictions of correspondence, for instance in Zadar, although this type of punishment was not in line with the Croatian Criminal Procedure Act. Numerous international standards have emphasised the importance of prisoners' contact with the outside world. For instance, the European Prison Rules state that prisoners shall be allowed such contact by way of letters, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons. Such restrictions shall nevertheless allow an acceptable minimum level of contact.

The Criminal Procedure Act enshrines restriction of visits and correspondence as the only type of disciplinary proceedings. This puts prisoners on remand in a more unfavourable position compared to persons serving a prison sentence, who are not deprived of contact with family members, even if they are subject to solitary confinement.

Inconsistencies in implementation of disciplinary measures due to shortcomings of the Criminal Procedure Act put prisoners on remand in an unequal position between themselves. For example, during a visit to the Karlovac County Court, we noticed that some judges implement disciplinary proceedings and hear prisoners on remand and witnesses, whereas others make decisions on the basis of written statements submitted to them with the report of a disciplinary breach. Some judges disregard suggestions of the heads of prison altogether. In order to prevent these inconsistencies, the

Article 140 of the Criminal Procedure Act should be amended in order to prescribe different types and measures of punishment, as well as the procedure in terms of execution thereof.

Judicial protection

According to records of the COPSPD, in 2017, the number of complaints filed to the heads of prisons grew by 7%. At the same time, the Lepoglava State Prison accounted for the 68% of all the complaints. Although some positive trends have been observed during our visits to penal institutions, especially when it came to records keeping, persons deprived of liberty are still dissatisfied given the insufficient effectiveness of legal remedies. Mostly, they complain of the way complaints are handled – mostly superficially and in an incomplete manner, without providing the facts that the decision on their justification is based on.

They are dissatisfied with executing judges' behaviour and state that proceedings launched on the basis of their requests for judicial protection were too lengthy and that decisions are issued on the basis of penal institutions' reports only. According to records of the COPSPD, in 2017, only 36 requests for judicial protection were assessed as justified due to a breach of right to accommodation in line with human dignity and health standards. Judicial protection was granted to prisoners serving their sentence at the Lepoglava State Prison only, and not a single request put forward by prisoners from other penal institutions was assessed as justified.

Although some positive trends have been observed during our visits of penal institutions, especially when it came to records keeping, persons deprived of liberty are still dissatisfied given the insufficient effectiveness of legal remedies.

Prisoners' allegations that, despite the obligations from the EPSA, executing judges did not visit them at least once a year, are backed by the records of the COPSPD confirming that the executing judges did not at all visit four penal institutions, including the Zagreb County Prison in 2017. Also, prisoners on remand complain about irregular visits of the relevant judge. For example, the relevant County Court judge visited the Dubrovnik County Prison on four occasions in 2017, although he was obliged to visit prisoners on remand at least once a week. Since, in accordance with the Criminal Procedure Act, judges are obliged to apply measures to correct irregularities observed during prison visits, we have notified the Ministry of Justice about this problem and its potential negative effects on respect of rights of prisoners on remand.

Prisoners' work

In accordance with the EPSA, the right to prisoners' work is considered to be a positive element in serving a prison sentence and may not be used for purposes of imposing additional punishments. Prisoners can chose the type of work within the framework of jobs offered in line with their professional background and options available within the prison. Work represents an important element of individual programmes of execution of prison sentence and, as such, it is available to prisoners depending on their health conditions and knowledge, provided that they pass a test on legislation regarding occupational health and safety. In accordance with the EPSA and the Ordinance on Work and Professional Training, List and Job Descriptions of Prisoners and Compensation for Work and Awards, a special List and Job Description for Prisoners is being prepared. It includes the details

regarding the necessary time for training, coefficient of job complexity and number of persons engaged in work.

Prisoners' work is evaluated and as such plays an important role in adopting a decision about benefits. That is why it is extremely important to make a decision regarding the posting of prisoners at workplace in line with their health condition, education and knowledge. It is also important to make sure that they are appropriately fit for jobs assigned to them and monitored by their trainers. That is why prison directorates were advised, after the visits to the Zagreb, Dubrovnik and Gospić County Prisons and the Glina State Prison, to consider the option to list all the jobs performed by prisoners within wards and subwards that include engagement of hired trainers, in order to evaluate their work accordingly.

Some penal institutions (for instance, the Zagreb and Dubrovnik County Prisons) have not carried out risk assessment, i.e. it is not clear what jobs require an obligatory opinion of the OM (occupational medicine) specialist as opposed to jobs that call for the opinion of the prison physician only. Other penal institutions had developed risk assessments. On the other hand, the Glina State Prison failed to refer prisoners to an examination by an OM specialist due to austerity measures, although they were performing jobs that required such an examination. Furthermore, although the EPSA states that, when assigning prisoners to work, a physician's opinion must be obtained, the Act does not stipulate in detail the content thereof, so if, in order to assign prisoners to workplace, it is necessary to obtain the opinion of the official physician of a penal institution, COPSPD should, in collaboration with the Ministry of Health, develop guidelines as a basis for formulation of such opinions.

Apart from the Dubrovnik County Prison, none of the penal institutions allow work engagements for all prisoners who want to work. For that reason, prisoners who are eager to work should thus be assigned to posts that do not call for any special professional qualifications or health requirements, i.e. the required number of workers should be engaged to cover all the workplaces envisaged by the above-mentioned List.

Vacancies have been registered for certain posts, especially in the catering industry, usually filled by prisoners from the medium security wards in the Lepoglava State Prison. Given the strict criteria that prisoners have to meet, they cannot be transferred to medium security wards in sufficient numbers, so those assigned work in the catering industry work overtime as defined in accordance with general regulations.

None of the penal institutions keep records on the number of prisoners engaged to work in accordance with the decision on work assignments. These records, particularly in case of large numbers of prisoners deployed, would allow for transparency regarding available vacancies, monitoring of prisoners' work assignments and compliance in terms of the number of workers with the List.

In 2017, on average, 1,148 prisoners were assigned to work each month, of which 1,060 full time, whereas 88 of them worked overtime. In line with the contracts concluded between penal institutions and employers, no more than 112 persons were assigned to work, as opposed to 879 of non-engaged prisoners, who had not been provided with job opportunities, although they had said they wanted to

work. New forms of work assignments covering more prisoners should be considered by taking into account all the elements listed above, in particular, the structure of prisoners in terms of their qualifications, work capability, criminological characteristics, length of sentence, possibility to refer them to certain types of imprisonment and availability of jobs.

Provision of healthcare to persons with severe forms of disability

One representative of the Office of the Ombudswoman for Persons with Disabilities took part in the visits to the Glina State Prison and Bjelovar County prison. Her role was to evaluate the provision of healthcare to prisoners with severe forms of disabilities who were wheelchair or prosthesis users (tetraplegia, spine injuries, amputation of extremities).

In the Glina State Prison they did not complain about the provision of healthcare they needed given their situation or availability or orthopaedic aids. A paid assistant (another prisoner) was at their disposal to assist them when walking or carrying out different tasks (e.g. tidying up their room, pushing the wheelchair). According to the opinion of the Ombudswoman for Persons with Disabilities, the right to provision of healthcare for persons with disabilities through physical therapy and medical rehabilitation has not been violated. In addition, orthopaedic and other aids were available to them according to their needs, as well as other medical services.

The Bjelovar County Prison did not accommodate prisoners with severe forms of physical disabilities or those that used orthopaedic and other aids since these persons were referred to the Glina State Prison that was accessible to this group of prisoners. During our visits, we did not record prisoners with mild forms of physical or other disabilities. In terms of rights to physical therapy (PT) and medical rehabilitation, officials were familiar with the obligation to ensure the same level of healthcare for prisoners with disabilities that they would have enjoyed at liberty.

4.1.3. Assessment of the situation in the prison system

Systematic problems that we have warned against in our earlier reports still persisted in 2017.

The Zagreb Prison Hospital and the so-called infirmaries, i.e. prisoners' healthcare wards, which are established in each penal institution, are still not organized in accordance with the Healthcare Act. Although the Ministry of Health did not deliver the required data, according to our information, the premises within the penal institutions designated for the provision of healthcare still do not meet the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare to Persons Deprived of Their Liberty. Also, despite the expiry of the deadline set by the Decision of the Constitutional Court U-III/64744/2009 of 2010 on the establishment of efficient supervision of quality of healthcare in the entire prison system, it has not been implemented yet. Such a practice is unacceptable. In accordance with the new internal structure of the Ministry of Justice, the prison hospital shall be equipped with only two (instead of the previously established five, in accordance with the Ordinance on Minimum Standards of Space) wards for treatment of prisoners, namely, the healthcare ward and the forensic psychiatry ward.

The current situation in the prison hospital is alarming due to the number of specialists that have left. More precisely, the lack of psychiatrists is most severely felt, since out of eight previously employed,

only one has remained. The prison hospital has concluded a temporary service contract with another external specialist. Since, apart from treatment of ill prisoners and prisoners on remand on account of a mental disorder, the prison hospital also has a role in implementation of a security measure of compulsory psychiatric treatment with prison sentence, vacancies in this respect have a direct effect on the implementation of court decisions.

A new dental clinic in the Glina State Prison has been fully equipped, but it is still not functional. This means that the issues regarding the dental protection for prisoners have not been solved.

According to records of the COPSPD, no more than 111 prisoners have taken out government-funded supplemental health insurance. The majority of prisoners who do not have regular monthly income do not enjoy the benefits of supplemental health insurance so some of them refuse to undergo therapy to avoid accumulating debts on their deposit accounts. Despite the fact that we have pointed out that therapy should be administered by healthcare practitioners, only seven out of 21 penal institutions comply with this instruction.

The current situation in the prison hospital is alarming due to number of specialists that have left. More precisely, the lack of psychiatrists is most severely felt, since out of eight previously employed, only one has remained. The Prison hospital has concluded a temporary service contract with another external specialist.

Execution of prison sentence relies on rehabilitation-based approach that presupposes individualization of sentence by implementing individual programmes of execution of prison sentence and a number of specialised treatment programmes for selected groups of prisoners. Greater diversity among treatment groups in terms of age, criminal records etc., calls for implementation of a larger number of specialised programmes. On the other hand, the insufficient number of treatment officials, impossibility to cover enough prisoners by group work to implement the programmes etc. cause organizational issues. In the last couple of years, smaller penal institutions have been implementing preventive programmes. Rather than being focused on behavioural change depending on the criminal act, they put emphasis on the acquisition of special skills and knowledge, problem-solving and improving the quality of life and personal relations. A social skills training is a good case in point.

In the majority of penal institutions, treatment officials do not apply proactive approach. Instead, they talk to persons deprived of liberty only after they apply. In some penal institutions, offenders and prisoners on remand very rarely apply for a conversation with treatment staff because they are not informed about such a possibility. For this reason, treatment officials should visit all wards with offenders, prisoners on remand and prisoners at least once a week so as to allow them to engage in a conversation with them without having to apply first and ensure better availability of treatment staff across wards.

Prisoners are not likely to enter into an employment relation and engage in rehabilitation programmes without having first completed primary education. For that reason, it is necessary to step up activities that focus on their education. In other words, everyone has to be given an opportunity to complete primary education in order to enter the labour market regardless of their age.

In order to ensure more prisoners' involvement in resocialization programme, the performance evaluation of implementation of individual programmes of execution of prison sentence should be

made more transparent and should include more feedback to the prisoners regarding the necessary changes in their behaviour.

Accommodation conditions in numerous penal institutions are not appropriate to ensure human dignity and health standards. In some cases, they can even be considered degrading. Non-compliance with spatial standards, lack of privacy when having to go to toilet, joint accommodation for both smokers and non-smokers represent only some of the problems that we have indicated in our previous report and that still remain unresolved. Although spatial adaptations require significant investment, this fact may not be used as an excuse to postpone harmonization of accommodation conditions with legal and international standards.

In addition, inconsistencies still remain a challenge, as previously pointed out. Lack of clear and consistent criteria, especially in terms of deprivation and restriction of rights, puts persons deprived of liberty in an unequal position and provokes feelings of injustice and arbitrariness, that can create some negative trends. Since shortcomings in the legislative framework have a direct effect on inconsistencies in practice, it is necessary to improve and harmonize it with international standards as soon as possible. Also, in line with the EPSA, the Prison System and Probation Directorate should continuously monitor and analyse how persons deprived of liberty are being treated and take measures to harmonize practice.

Although some positive trends have been observed, acting on prisoners complaints in the prison system often boils down to form only, without detailed and impartial examination of allegations. Efficiency of legal remedies is still not sufficient, and effective examination of all allegations about possible abuse is still not being carried out. This is illustrated by the fact that the Decision of the Constitutional Court U-IIIBi/369/2016 of 2017, established the breach of procedural aspects of rights guaranteed by the Articles 23 and 25 of the Constitution and the Article 3 of the ECHR. Namely, the Prison System Directorate did not reply to the complaint filed by a prisoner on remand but only forwarded it to the Zadar County Court. The Court failed to submit any feedback to the complainant or adopt a decision. Furthermore, although, in line with the case law of the Constitutional Court, access to court represents a part of a fundamental human right to fair trial, procedures launched on the basis of applications for judicial protection and complaints against decisions of heads of prison are often too lengthy, making the adopted decisions meaningless. By taking into account the fact that the efficiency of judicial protection represents a precondition for respect of prisoners' rights and fight against impunity of crimes involving any forms of torture, inhuman or degrading treatment or punishment, the existing situation calls for immediate improvements.

Lack of clear and consistent criteria, especially in terms of deprivation and restriction of rights, puts persons deprived of liberty in an unequal position and provokes feelings of injustice and arbitrariness.

Amendments to the Criminal Procedure Act from 2017 strengthening the remedies to provide judicial protection to prisoners on remand represent a positive step in that direction. Nevertheless, despite our recommendations from the previous reports, the amendments of provisions on the execution of prison on remand have again been implemented only partially. This puts prisoners on remand in a

more difficult position compared to prisoners serving a prison sentence in situations when this is not necessary and this fact should be taken into consideration when drafting next amendments.

Since the adoption of a new EPSA was prescribed in the Annual Normative Activities Plan for 2015, 2016 and 2017, formation of a special working group entrusted with drafting the legal text including the representatives of our Office was regarded as a positive step. On the other hand, although the working group created a complete draft between April and September 2017, its members have not met since. Regardless of our efforts, we have failed to obtain information regarding the status of preparation of a new EPSA, but the fact that it has not been included in the Annual Normative Activities Plan for 2018 does not sound very promising. Also, we took part in the preparation of the Action Plan for the Development of the Prison System in the Republic of Croatia but we did not get any information regarding its adoption.

We evaluate our cooperation with the COPSPD in 2017 as good, but there is still room for improvement. Better cooperation would result in better respect for the rights of persons deprived of liberty and prevention of torture and other acts of cruel, inhuman, or degrading treatment. Although some positive changes in some penal institutions have been registered, none of the seven recommendations from our 2016 Report have been implemented in the whole prison system, which is why we repeat them in this year's Report.

4.2. THE POLICE SYSTEM

4.2.1. Protection of citizens' rights, including persons deprived of liberty in police treatment

Complaints to the Ombudswoman

"I was walking down the street with my hands tied, as if I was in some sort of a circus. Police officers wanted to degrade me and make me feel miserable."

In 2017, the Ombudswoman acted in 148 cases regarding police treatment on the basis of citizens' complaints and on her own initiative. Just as in previous years, a significant number of complaints addressed overstepping of authority in procedures involving the use of force and resulting in deprivation of liberty and infliction of injuries.

In accordance with the ECHR case law, any injury sustained in detention or confinement, gives rise to suspicions about police violence, even abuse. In such cases, efficient investigation should be carried out *ex officio* in order to prove that police officers have not overstepped their authority, regardless of the fact whether criminal charges were brought. However, it was not initiated in cases in which the competent state attorney's office had insights into alleged police violence, and it acted only after the aggrieved party brought criminal charges. For instance, during the questioning, a detainee reported a case of police violence to the state attorney's office. This report did not lead to a prompt reaction,

whereas, in another case, the municipal state attorney's office took official action only after criminal charges for police violence have been brought. Conducting efficient investigation ex officio in case of clear indication of possible abuse is referred to in ECHR decisions J. L. v. Latvia (2012) and Hassan v. UK (2014).

Citizens' complaints also dealt with the methods of using means of coercion during arrest. When assessing the need for their use, it is necessary to determine whether these methods were crucial and proportional, because, in accordance with the ECHR case law, if it is deemed unjustified and excessive, they may represent inhuman and degrading treatment. For instance, arrest of a citizen on account of the alleged breach of public order by using means of coercion was carried out in a degrading manner because he had to walk down the street handcuffed. Even though use of means of coercion represents police authority that may be applied, provided that the appropriate legal conditions have been met, it is necessary to respect the dignity, reputation and honour of every individual, by taking into account the ECHR decision M. and M. v. Croatia (2015) that establishes that treatment is found to be degrading if it causes fear, suffering and sense of subordination on the part of the victim, i.e. if it degrades or belittles the individual.

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Use of means of coercion has to be lawful and well-founded. Also, a police officer has to report the application thereof to his superior in written, in order to make decision about its justifiability and lawfulness. Yet, in one case, use of means of coercion applied against a citizen in order to bring him in to be questioned about a criminal act was not reported at all. In addition, after gaining knowledge about the use of means of coercion, the evaluation of its justifiability and lawfulness was not carried out.

Police use of means of coercion applied against persons with mental disorders in psychiatric institutions is regulated by the Act on Persons with Mental Disorders (APMA) that prescribes obligation on the part of police to treat these persons with special attention, protect their dignity and follow instructions of the healthcare staff. The complexity and the need to pay more attention to police treatment in such cases is seen in that of a person with mental disorder, against whom means of coercion had been applied and who had inflicted injuries upon herself, only to die when paramedics provided her with medical aid and transport services later on. She was handled by law enforcement officers because the law does not prescribe formation of specialized police units trained to deal with persons with mental disorders (as is the case with juvenile offenders, for instance). The need to train police officers in that area is in line with the ECHR decision Shchiborshch and Kuzmina v. Russia (2014) which states that officers need to undergo training that would make them fit to deal with persons with mental disorders. In that sense, it is necessary to take into account the order issued by the head of the General Police Directorate of 2017 calling for consistent compliance with and respect for provisions of the Act on Police Duties and Authorities (APDA) and Ordinance on Conduct of Police

Officers with a special emphasis on treatment of vulnerable groups, including persons with mental disorders, to minimize interference with their freedoms and rights.

Even though the APDA prescribes special treatment of persons with mental disorders and even though the Ordinance on Arrest and Treatment of Arrested Person and Detainee allows for administration of ongoing therapy even before a person is detained, contrary practices have been recorded. In one case, a person was deprived of the ongoing therapy, which led to exacerbation of medical problems. On the other hand, in line with the ECHR decision Rupa v. Romania (2008), if a person's health condition gets worse after a medical examination conducted by a GP, a psychiatric examination must be provided for in order to assess whether the person's mental condition is compatible with detention.

The UN's Code of Conduct for Law Enforcement Officials makes reference to special measures to secure medical attention in order to ensure full protection of persons in detention. Taking into consideration the importance of psychiatric examination to assess whether a person with mental disorders may be arrested and kept in a police station and our recommendations, the Ministry of Interior has launched the initiative to introduce amendments to the Ordinance on Arrest and Treatment of Arrested Person and Detainee.

Keeping people inside a police van at outside temperatures of 39.4°C, without proper ventilation or water, represents a form of degrading treatment. Transport vans may be used for their primary purpose, i.e. transport from the place where persons deprived of liberty are being kept, rather than for detention purposes.

In one case, although - according to complaints filed by citizens - police officers put citizens' lives, health, dignity and honour in danger during an eviction procedure, the Police Directorate concluded that use of means of coercion was lawful and justified. Also, keeping people inside a police van at outside temperatures of 39.4°C, without proper ventilation or water, represents a form of degrading treatment. Transport vans may be used for their primary purpose, i.e. transport from the place where persons deprived of liberty are being confined, rather than for confinement purposes.

Nevertheless, while acting on a complaint about police treatment while providing assistance to a court-appointed executant, we have established that officers had not paid special attention to protect dignity of the affected person, and our warnings and recommendations have prompted the head of the General Police Directorate to issue an order to all police directorates regarding consistent compliance with and respect for provisions of the APDA and Ordinance on Conduct of Police Officers addressing appropriate treatment of citizens. This is a good example of cooperation between the Ministry of Interior and the Office of the Ombudswoman that should bring about fewer breaches of citizens' human rights, especially the most vulnerable groups.

Allegations about inappropriate police treatment could not have been confirmed in some investigative procedures carried out in 2017, since video surveillance was not installed in all premises in which persons deprived of liberty were accommodated or located. In some cases, the footage was kept for a short period which did not provide for establishment of facts. For that reason, by allowing for complaints to be filed on the thirtieth day of the day when breach was made known, the storage

of the footage should be regulated so as to provide for its use within that period or even longer in each individual case.

Citizens also complained about insufficient provision of information regarding the actions taken after their applications, even though police officers had acted promptly and were engaged in field work. Such a practice may be misleading because applicants might think that they filed a complaint for criminal offence whereas the police considered it as misdemeanour. This was the case with complaints filed by two citizens: one of them thought that she had complained about a criminal offence, whereas the police had initiated misdemeanour procedure for the alleged breach of the peace; the other one thought that the police would bring charges *ex officio*, only to find out that the police officers considered the alleged offence an accident. In accordance with the APDA, a police officer is obliged to warn the applicant on justifiability of his/her complaint. In case of a criminal offence where the defendant is prosecuted *ex officio* or if the event does not have the characteristics of a criminal offence, the officer is obliged to inform the applicant thereof.

4.2.2. Visits to police stations and detention units

In line with its authorities, with the aim of preventing torture and other acts of cruel, inhuman, or degrading treatment, the NPM visited 17 police stations within three police directorates and the detention units of the Lika-Senj and Zadar Counties. All the visits were regular, apart from the visits to the detention unit of the Pag Police Directorate and Police Station and the Zadar Second Police Directorate, whose aim was to establish the level of implementation of warnings and recommendations issued after the previous visits. Accommodation conditions were inspected, as well as records on persons deprived of liberty. It was determined that the accommodation conditions were not completely in line with international standards, which may represent degrading treatment and is contrary to the Standards of Rooms Where Persons Deprived of Liberty Are Held.

Accommodation conditions

Although the Ordinance and CPT standards provide that the detention unit has to have appropriate lighting (daylight, if possible), ventilation, a place to rest (fixed chair or bench), availability of drinking water, availability of a lavatory with appropriate hygiene standards and possibility to spend time outdoors, the visits showed that these standards are still not implemented.

Even though, in line with the warnings and recommendations to the Zadar Police Directorate, the General Police Directorate informed us that the installation of water supply network would ensure drinking water access to persons deprived of liberty and that small-scale construction works next to the premises for accommodation of prisoners should ensure space for outdoor stay, none of these two projects have been carried out. For instance, despite spatial adaptations, persons deprived of liberty in the Pag Police Station still lack direct access to drinking water and a lavatory.

Access to daylight and fresh air represent basic living conditions that each person deprived of liberty is entitled to and their restriction can lead to development of diseases.

In addition, three premises of the detention unit within the Lika-Senj Police Directorate, as well as some police stations, do not have access to daylight.

Artificial lighting coming from reflectors inside corridors is insufficient to enable reading. Access to daylight and fresh air represent basic living conditions that each person deprived of liberty is entitled to and their restriction can lead to development of diseases.

Some police stations still lack premises for the accommodation of persons deprived of liberty. For instance, they are temporarily confined in a side room of the Zadar Police Station designated for seized possessions and later taken by police officers to the Gračac Police Station 40 kilometres away. Such a practice makes police activities much more difficult.

Furthermore, the CPT standards prescribe that rooms for confinement purposes must have a squat toilet with a flusher, as well as access to drinking water. Despite these requirements, lavatories are mostly located outside of such rooms and it is highly unacceptable to locate them on a floor different to the one where the room for confinement purposes is situated, as in Otočac.

Also, ventilation systems are not installed in the majority of rooms. Sometimes windows facing the corridor of the police station are used for the same purpose. Most of the premises lack alarm switches. To attract officers' attention, prisoners are forced to wave at the video surveillance cameras. The situation in the Rab Police Station is particularly serious: the room lacks the alarm switch, whereas CCTV cameras do not function properly, which means that persons deprived of liberty cannot communicate with the relevant police officer. Video surveillance systems are installed in the majority of rooms where persons deprived of liberty are accommodated, unlike corridors and other premises where they move. In case of the Korenica Police Station, a camera is installed in the lavatory and this is regarded as a breach of privacy and lack of respect for these persons' dignity. For these reasons, video surveillance should be installed in all rooms where persons deprived of liberty are accommodated or where they spend time, apart from the lavatory.

In that respect, the Mali Lošinj Police Station can serve as an example of good practice since it has fixed windows with glass tiles to allow for daylight. All rooms are equipped with lavatories that include stainless steel squat toilets with a flusher and partition. Water is readily available. Video surveillance and alarm switches are installed in all rooms.

Rights of persons deprived of liberty

Records on persons deprived of liberty (arrested, detained or confined) were inspected during the visits. When issuing orders on isolation in separate rooms or Report on Arrest, police stations do not keep records on the time when a person was deprived of liberty or released. This represents a breach of the constitutional provision stipulating inviolability of freedom, as well as the fact that it may not be limited or taken away by a third party, unless provided by law, in which case the relevant decision must be rendered by a court.

Furthermore, treatment of persons under the influence of intoxicants is not regulated by a special ordinance. In accordance with the Misdemeanour Act, if a person is found to be under the influence of intoxicants while committing an offence and if special circumstances indicate that a person will continue committing an offence, he/she may be put in a special room by a police. Apart from

deadlines, the Act does not lay down details regarding the special circumstances so these issues have to be regulated by a special ordinance, as is the case in terms of treatment of the arrested or detained persons. In this way, confined persons would have the same rights as those who are arrested or detained. In addition, this would decrease the risk of police officers making arbitrary decisions.

Foreign citizens have to be provided with interpretation during the arrest and the relevant consulate / embassy has to be informed about the arrest. On the other hand, letters of rights informing the arrested person about his/her rights often lack the interpreter's signature, which makes it difficult to determine whether interpretation was provided and whether, in line with the request, the consulate/embassy was informed about the case.

To prevent situations in which provision of sufficient meals for the arrested persons depends on police officers' estimates only, it is necessary to regulate the provision stipulating their right to an appropriate number of meals during deprivation of liberty, in the same way as enjoyed by detainees.

In terms of meals provision, different treatments of arrested persons as opposed to detainees have been recorded. In accordance with the Ordinance, a detainee is entitled to a minimum of three meals a day, of which one must be a full meal. Quite the opposite is true: the number of meals provided to an arrested person depends on the time since the last meal was consumed and the arrest time. To prevent situations in which provision of sufficient meals for the arrested persons depends on police officers' estimates only, it is necessary to regulate the provision stipulating their right to an appropriate number of meals during deprivation of liberty.

Records on use of means of coercion were inspected during the visits and the evaluation of their justifiability was requested. The findings have shown that, in some cases, the evaluations were made after the expiry of the set deadline of 24 hours from the submission of a written report.

Despite earlier recommendations issued to the Ministry of Interior, detention supervisors still perform the tasks of officials of the operations and communications centre, which is not good, because performance of two tasks can result in overburdening them. In accordance with the Ordinance, a detention supervisor is in charge of correct implementation of regulations on treatment of detained persons and must warn them of their rights and duties. Since detention units do not have detention supervisors who would be entrusted with these tasks only, it is not clear whether they can monitor how detained persons are being treated. Furthermore, since the Ordinance does not prescribe possible delegation of responsibilities to other police officers, it is questionable whether they can implement the Ordinance in full and monitor treatment of detained persons because it may pose a risk of inhuman and degrading treatment.

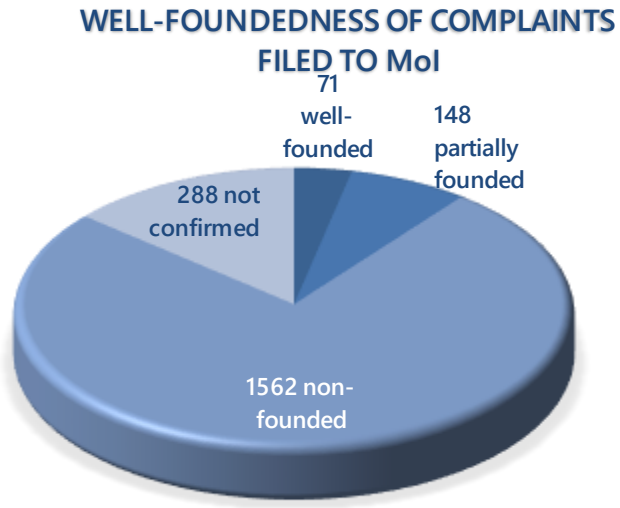
4.2.3. Assessment of the status of respect of rights of persons deprived of their liberty in the police system

In 2017, the system of civic supervision of police work was not established since commissions to handle citizens' complaints had not been formed in the Ministry of Interior (MoI) and police directorates because of insufficient applicants at two public calls organized for this purpose. This type

of civic supervision is important because it gives opportunities to citizens to have their complaints examined even after they have received feedback from the Internal Control Department. The Government Plan of Legislative Activities for 2018 does not include amendments to the Police Act, which means that the current method to form commissions, although evidently inefficient, still remains in force. On the other hand, in order to ensure efficient work of commissions, appropriate conditions for its functioning must be ensured, including complete autonomy and independence.

According to records of the Ministry of Interior (MoI), of the total number of complaints about police treatment filed in 2017, 10% were well-founded or partially founded, and applicants objected to 167 of the non-founded. Since objections are submitted if the applicant is not satisfied with the findings, it is important to strengthen the internal supervision over police treatment. This type of supervision is carried out by the Police Directorate and the Internal Control Department.

Once again, the majority of complaints in 2017 addressed the use of means of coercion when exercising police authority. In that respect, it is important to assess the justifiability and lawfulness thereof in order to prevent inhuman or degrading treatment. In the case of Bouyid v. Belgium, the ECHR found that unjustified use of force by police officers represented degrading treatment. That is why video footage is extremely important because it may help citizens protect themselves from unlawful and unethical treatment. On the other hand, it may protect police officers from unfounded complaints.



As previously, accommodation conditions are not completely in line with prescribed standards of premises in which persons deprived of liberty are located. Frequently, they are accommodated in rooms without access to drinking water, daylight and ventilation or a lavatory with appropriate hygienic standards. Also, they cannot stay outdoors. These things represent basic living conditions that any person deprived of liberty is entitled to. Any restriction of access as indicated above may amount to degrading treatment. Plus, it may contribute to onset of a disease. One case in point remains problematic - after the warnings and recommendations of the Office of the Ombudswoman, spatial adaptations have been made; yet, the relevant premises still lack access to drinking water and a lavatory.

Police officers often fail to keep records regarding the time when a person was deprived of liberty or released in the Order on Accommodation to Separate Room or Arrest Report and this may be considered violation of citizens' constitutional rights. Despite earlier recommendations issued to the Ministry of Interior, detention supervisors still performed the tasks of officials of the operations and communications centre, which does not contribute to the protection of rights of persons deprived of liberty.

4.3. PERSONS WITH MENTAL DISORDERS WITH RESTRICTED FREEDOM OF MOVEMENT

"Given the enforcement orders, my marriage was ruined. I lost everything, it was all their fault... Debts just kept accumulating. At one point, I wanted to put an end to everything, but I was too weak to go to the very end. They took me to this ward. Initially, I refused to be treated. I thought that I was doomed. Then, that place helped calm me down. Talking to my doctor was helpful. He understands me... But, other patients told me that I may have to pay for the two weeks when I didn't sign the admittance form. Where will I get the money for that? Will this ever stop?

In 2017, we received 19 complaints filed by persons with mental disorders regarding involuntary hospitalization, i.e. subjection to involuntary medical procedures during in-patient treatment in psychiatric institutions. We visited the Psychiatric Clinic of the Rebro University Hospital Centre and the Dubrovnik General Hospital (psychiatric institution)[13].

Some complained that doctors threatened to launch the involuntary detention procedure if they refused to take medicines. Although the Act on Protection of Persons with Mental Disorders does not treat involuntary detention and involuntary treatment as synonyms, insufficiently clear standards may lead to different interpretation of terms and non-uniform treatment on the part of psychiatrists. Most of them think that involuntary detention also includes involuntary treatment. If this was not the case, then detention would boil down to "keeping a person inside". Others think that the legal basis for involuntary treatment may be applicable only for forensic patients. For this reason, this area has to be regulated in a more stringent manner in order to prevent different interpretations and possible violations of rights of persons with mental disorders.

Persons with mental disorders are still dissatisfied with the work of their lawyers appointed *ex officio*. Sometimes, they did not even know who had been assigned to them because he/she did not take an active part in the procedure. Active participation of lawyers/defence counsels appointed *ex officio* represents an exception rather than a rule. Generally, complainants were more satisfied with the work of lawyers of their own choice. Lawyers appointed *ex officio* need to play a more important role in the process, otherwise their work boils down to pure compliance with the rules, rather than protection of rights of persons with mental disorders.

Persons suffering from acute psychiatric disorder who do not have supplemental health insurance plan still have to take part in cost sharing to cover the costs of treatment, despite the fact that they were not allowed to terminate the treatment of their own free will.

The Croatian Health Insurance Institute (CHII) did not report on the number of insured persons who were obliged to take part in the cost sharing scheme to cover the treatment costs for their condition during involuntary detention or accommodation. The Institute provided us with the data regarding

[13] In this chapter, the term *psychiatric institution* refers to a healthcare institution or a unit for specialist and in-patient psychiatric treatment.

the total number of people covered by the cost-sharing scheme, which includes those staying in the institutions of their own free will. Persons suffering from acute psychiatric disorder who do not have supplemental health insurance plan still have to take part in cost sharing during involuntary detention and accommodation because the diagnosis they were given is not covered by the CHII List of Diagnoses eligible for funding through mandatory health insurance. In accordance with the Act on Mandatory Health Insurance, CHII fully covers the costs of treatment of chronic psychiatric diseases only. Such a practice is unacceptable in cases of involuntary detention and accommodation. Regardless of the diagnosis, treatment costs should be covered by the CHII in full. In that respect, in our previous reports we called for amendments to the Act on Mandatory Health Insurance. Despite our efforts, the amendments have not been made yet and this puts some patients in an absurd situation whereby they are partially charged costs of treatment that they cannot terminate of their own will.

During our visits, we did not register instances of inhuman treatment, but we did observe some cases of degrading behaviour. As a rule, patients were satisfied with the approach of nurses/technicians and doctors. In particular, patients of the Psychiatric Clinic of the Rebro University Hospital Centre praised the quality of treatment. On the other hand, high security psychiatric ward does not meet the Ordinance on Minimum Standards of Space, Workers and Medical Equipment for Providing Healthcare to Persons Deprived of Their Liberty. For example, some rooms are equipped with as many as six beds. Of all the psychiatric institutions visited by the NPM, the psychiatric ward of the Dubrovnik General Hospital has the best accommodation arrangements. *Inter alia*, windows are without bars and made of shatter resistant glass and this creates positive environment for therapeutic engagement in treatment. In both of these institutions, patients in the high security psychiatric ward cannot spend time outdoors.

Use of means of coercion against persons with mental disorders is allowed in exceptional circumstance only, if very urgent cases of serious and direct threat to the person's own or someone else's life, health and safety occur. In these cases, in line with the Ordinance on Types and Methods of Use of Means of Coercion against Persons with Mental Disorders, all patients are entitled to protection from restricted movements or isolation, if unjustified from a medical point of view. For this reason, data on frequency of use of means of coercion and justification thereof from a medical point of view are extremely important to determine to what degree their rights are being respected. Yet, none of the psychiatric institutions made the data fully available.

In line with the Ordinance on Types and Methods of Use of Means of Coercion against Persons with Mental Disorders, all patients are entitled to protection from restricted movements or isolation, if unjustified from a medical point of view.

Despite the recommendation in the 2016 Report, institutions have not kept special records on the use of means of coercion that would allow for assessment of the frequency thereof. Also, despite the fact that, in accordance with the APPMD, psychiatric institutions are obliged to submit a report to the Commission for Protection of Persons with Mental Disorders (CPPMD) on the use of means of coercion, they do not comply with this obligation and this renders a perspective on the state of the play rather unclear. In the Dubrovnik General Hospital, in some cases, it was impossible to determine how long means of coercion were applied because the hospital staff did not appropriately record the

data on the day and hour when the use of means of coercion had began and ended, nor the type of the measure as prescribed by the specialist doctor. Also, notes on supervision of restrained patients are not regularly kept with medical files. Assessment of the need for additional restraint, especially in cases of patients restrained during the night, is not carried out every four hours. The justification for such practice is questionable from a medical point of view. In addition to breaching the Ordinance, such treatment is unacceptable because restraint methods can be applied for up to several days (as is the case in the Dubrovnik General Hospital, for example) and may lead to unnecessary and unlawful restriction of rights. Plus, some of the healthcare staff applying the means of coercion are not at all familiar with provisions of the APPMD and Ordinance. For these reasons, in order to strengthen the rights and freedoms of persons with mental disorders, all psychiatric institutions should establish and keep records on the means of coercion applied against their patients and organize regular trainings for the staff regarding the application thereof.

Some of the healthcare staff applying the means of coercion are not at all familiar with provisions of the APPMD and Ordinance so all psychiatric institutions should establish and regularly keep records on the applied means of coercion.

During our visits, we made note of treatment contrary to regulations and international standards, as indicated in our previous reports. For example, the restraint procedure, contrary to the Ordinance, does not include five persons carrying out the process. As a rule, restrained persons are left in their rooms with other patients. Not only does this pose a security threat, but also causes feelings of low self esteem and may be regarded as degrading. In addition, although we keep emphasising it is unacceptable to put diapers on restrained persons, even if they do not suffer from incontinence, this degrading practice is still applied.

Although we keep emphasising it is unacceptable to put adult diapers on restrained persons, even if they do not suffer from incontinence, this degrading practice is still applied.

Electroconvulsive therapy (ECT), applied only in the Psychiatric Clinic in Croatia, is used in modified form only, with anaesthesia and muscle relaxants. This practice is in line with the WHO recommendations and COT standards. The therapy is administered to patients with certain disorders who, in general, do not react to medical therapy or those with life-threatening side effects of use of neuroleptic medicines. The Clinic does not have general guidelines for ECT use. The healthcare staff are self-trained and we think that this is commendable, yet, all the team members applying this procedure should develop standard guidelines for preparation and application of ECT and follow-up procedures. A single record keeping mechanism should be set in place, covering indications and conditions for ECT application, as well as a detailed description of results for each individual treatment. This would allow for quality monitoring. Other patients not subject to ECT are not in a position to see the application thereof, but the Clinic does not dispose of a special room for the administration of therapy. Instead, six-bed rooms in high security wards are used for the purpose. Patients accommodated in this room who are not administered the therapy leave their beds and go to the living room only to be replaced in their beds by patients subject to ECT. According to the staff statements, after being administered the therapy, they stay for two additional hours in the room and their health status is being closely monitored. This method of applying ECT is completely

inappropriate. Since only the Psychiatric Clinic administers this type of treatment, appropriate conditions must be ensured. Plus, the therapy must be applied in three rooms: one should act as a patients' waiting room, the other one as an application room so that people waiting their turn do not have to witness to the process. Finally, the third room should be designated for post-therapy rest, in line with the CPT opinion in its Report on 2007 Visit to Turkey.

Generally, patients submit written consent but, according to our findings, in exceptional circumstances, the procedure is applied even without grating the consent. In these situations, a written consent of a family member or a guardian is obtained, as well as the opinion of the ethical committee. This is contrary to provisions of the APPMD that lay down that ECT is allowed only with a written consent provided by the patient, and not by another individual. According to the information of the Psychiatric Clinic, this practice takes place only if all other types of treatment were tested out and if it is expected of the ECT to render real and direct benefits for the person's health, without adverse effects; and if patients are diagnosed with, for example, catatonia, that prevents them from communication and if not applying ECT could lead to serious and direct threat to life and health. That is why it is crucial to carry out an analysis to determine with clarity whether there are exceptional circumstances that would call for ECT application without explicit written consent provided by the patient. If there are, they have to be clearly defined. In addition, the APPMD has to be amended accordingly, taking into account that ECT must not be applied if the individual concerned opposes to it. In the meanwhile, the practice of administering ECT without the patient's written consent must be suspended.

According to the data provided, generally, all recommendations that do not require allocation of significant funds, as issued during the visits, were adopted or in the state of implementation.

For the first time since the NPM started performing its role, a visit was interrupted. The management of the University Hospital Centre did not approve access to data without previous announcement in writing. The Ministry of Health and Croatian Parliament were informed of the matter.

For the first time since the NPM started performing its role, a visit was interrupted. During the second day of the visit to the Psychiatric Clinic, the NPM representatives were informed about the stance taken by the management of the University Hospital Centre. According to their opinion, although, in line with their duties, the representatives may pay an unannounced visit to the Clinic, they cannot be provided with any data whatsoever unless they request it beforehand from the assistant director for legal affairs. They were allowed, in line with the opinion, to visit the rooms only. That being said, the report on visits was prepared on the basis of the previously collected data and does not allow for a comprehensive overview of the situation regarding the respect of rights of persons with mental disorders from the scope of work of the NPM. The Ministry of Health and Croatian Parliament were informed of the matter. The Ministry was required to inform all healthcare institutions accommodating or potentially accommodating persons deprived of liberty of rights and responsibilities of the NPM. The Ministry has fulfilled this obligation.

4.4. HOMES FOR THE ELDERLY AND INFIRM

'I'd love to get out of bed, sit in my wheelchair and go out, into the sunlight. But there are very few nurses in our home and they have so much work that I don't have the heart to ask them to put me into the wheelchair, and I can't get up on my own. I'm not complaining about them, there really aren't many of them and I see they are doing something all the time. So I spend my time lying in bed and waiting...'

In 2017, we paid unexpected visits to the homes for the elderly and infirm in Viškovo, Makarska and Osijek in order to establish the level of respect for human rights, with special attention paid to the situations that might constitute limitation of freedom of movement.

The Home in Viškovo is a private one, whereas the other two are decentralized, county homes. All the inspected facilities were neat and clean, and great effort was invested in making sure they had the best possible equipment.

The lack of staff was an issue in all three homes, which necessarily implied the violation of the rights of accommodated persons. For example, the Home in Osijek had only one nurse and two caretakers in the third shift, taking care of 180 users accommodated in the in-patient wards and 164 users accommodated in the residential part, which was insufficient and could significantly impact the users' safety. In the Home in Viškovo, due to the lack of nurses and caretakers, individual users with mobility issues never ask to get out of bed and go for a walk, so they usually spend their day in bed. There was a similar issue in the Home in Makarska, where due to the lack of caretakers, users with mobility issues and dementia usually do not go out, so one of them, who has been there for five years, never went out for some fresh air. The lack of staff also made employees overburdened, and the users noticed that the caretakers would yell at them when they were too tired.

In the majority of cases, accommodation contracts were not signed by the elderly, but by the family members or other persons covering the accommodation costs, which is inadmissible. The in-patient wards often do not have a dining room, because as a rule, in these wards meals are served in the rooms, despite the wish expressed by individual users to eat together with others. Not enough attention is devoted to adapting special diet menus to individual health conditions and they are not always harmonized with the appropriate guidelines for the nutrition of patients, but for example contain white flour, white rice, etc. In all the homes we noticed an ever-present issue we warned about repeatedly, i.e. during the provision of nursing care in shared rooms, the staff does not use screens or curtains, which violates the users' right to privacy.

The Home in Osijek had only one nurse and two caretakers in the third shift, taking care of 180 users accommodated in the in-patient wards and 164 users accommodated in the residential part, which was insufficient and could significantly impact the users' safety. In the Home in Makarska, due to the lack of caretakers, one user has not gone out for some fresh air for five years.

Through various organized free-time activities, the Home in Osijek encourages the elderly with mobility issues to get out of bed and leave their rooms. However, in the Home in Makarska, due to the lack of organized activities, people with dementia spend their time sitting in the living room, in their room or walking around the hallway of the closed ward, which only has one caretaker.

Individual bedridden users in the Home in Makarska say that the lack of diapers is a specific problem because they only get two in 24 hours, so they are forced to use toilet paper along with the diapers, which is humiliating. Although some employees denied this, due to the lack of individual records of care, these allegations could not be verified.

Inappropriate accommodation conditions also affect the level of respect for users' rights. For example, Makarska Home's branch in Runović does not have an elevator and it accommodates bedridden persons on the first floor, which brings their safety into question in case of urgent evacuation. Additionally, as the stairs do not have a wheelchair ramp, their freedom of movement is limited.

The communication protocol with the users of the Home in Osijek is an example of good practice because it enables filing complaints to the director about the staff conduct, which the users drop in the box intended for this purpose. However, these complaints are then dealt with "informally", so this should be regulated by an internal act. Each room has a bell to call the nurses when needed. Calls, as well as the staff's responses, are recorded in the computer, allowing to check whether there was an appropriate reaction to each call and in what time, which is also an example of good practice.

The users of the accommodation unit usually have their ID cards with them, whereas the ID cards of the permanent care patients are usually with their families or guardians, which is unacceptable and constitutes a form of limitation of freedom of movement. Namely, the ID card is the basic identification document, which every person over the age of 16 residing in the RC is obliged to have with them and present to the authorized persons. Therefore, the users who leave the facility premises without their ID card with them are committing an offense. If, due to medical reasons, an elderly person cannot have it with them, it should be stored in an appropriate place in the facility.

Some homes lock the wards that accommodate people who cannot leave at their own will. It is clear that, for example, those with Alzheimer's dementia, due to severity of their mental disorders, need this kind of accommodation, but this should be legally regulated because it violates Article 5 of the European Convention on Human Rights and Article 16 of the Constitution, and, de facto, constitutes a case of deprivation of liberty without a legal basis. Namely, the guardian's consent cannot be seen as the consent to the accommodation if the user objects to it. The Act on Protection of Persons with Mental Disorders (APPMD) prescribes control mechanisms for involuntary accommodation in a psychiatric institution, but no act prescribes similar mechanisms for permanent accommodation in social care homes, which usually lasts much longer than treatment at a psychiatric institution. This means that a person can live in such

Some homes have closed wards that accommodate people who cannot leave them as they wish. The Act on Protection of Persons with Mental Disorders prescribes control mechanisms for involuntary accommodation in a psychiatric institution, but no act prescribes similar mechanisms for permanent accommodation in social care homes, which usually lasts much longer than treatment at a psychiatric institution.

conditions for years without a legal basis and without possibility to leave, that is, their freedom of movement is limited without judicial review.

In accordance with the APPMD, coercive measures against people with severe mental disorders placed in social care homes can be used in the same way and under the same conditions as in psychiatric institutions. This means, inter alia, that the decisions on their use, except in emergency situations, are made by psychiatrists who also monitor the use of the measure. Since social care homes do not employ psychiatrists, the use of coercive measures is not legal and can result in unnecessary limitation or violation of the rights of persons with mental disorders. Additionally, social care institutions do not keep records on the use of coercive measures, which they refer to as restrictive procedures, so it was not possible to determine the frequency of their use. Although they are rarely used, non-compliance with legal procedures violates the rights of users with mental disorders.

The use of various security measures is not regulated, either, such as immobilization and fixation during night-time sleep, which is justified with the need to prevent falls. However, the conditions and methods of their use should be regulated, because inappropriate use can lead to health issues and death.

4.5. APPLICANTS FOR INTERNATIONAL PROTECTION AND IRREGULAR MIGRANTS

Modern migrations are characterized by their diversity, both in terms of permanence of residence and forced, i.e. voluntary migrations. Political instability and increasing differences in the level of development of individual countries have strongly influenced international political and economic migrations. In the last couple of years, all the countries on the migration routes have been faced with many challenges; transit countries with a large number of people who want to pass through their territory and destination countries with challenges posed before the system of application for international protection and integration. Border EU countries, as the states of first entry, have been the most exposed in the process, especially Italy and Greece. The EU relocation mechanism based on solidarity tries to mitigate the pressure on these countries. This mechanism implies a relocation of the agreed number of persons, who meet the criteria for granting international protection, to other member states. Transit countries, especially the second in line on the migration route, are trying to prevent irregular entries through stricter border control. By doing so, they are also trying to avoid being competent for resolving applications for international protection or applying return measures by implementing Dublin and Eurodac Regulations. On the other hand, after the agreement between the EU and Turkey and the end of migration crisis, seen as refugee crisis because of the structure of people in it, the countries had to deal with a large number of migrants who remained

Although faced with further insisting on the application of the Dublin Regulation and principle of solidarity in the distribution of migrants, i.e. refugees, the competent authorities of the Republic of Croatia still do not find it necessary to adopt a new migration policy.

after the route was closed, as well as with an increased number of people who were returned to these countries because of the application of the Dublin Regulation, and the ones who, although in smaller numbers, were still coming through the so-called Balkan Route and across the Mediterranean.

In 2017, the consequences of the mass movement of refugees and migrants were still felt in the EU, as well as in the so-called Balkan route countries. Although by adopting the European Migration Programme in May 2015, the European Commission tried to alleviate the crisis through urgent measures, in September the same year there were still mass arrivals for which no member state was prepared. Transit countries dealt with this issue by opening their borders and organizing further transits, which violated national and EU legislation, primarily due to lack of registration. This was the reason the EC initiated a procedure against the RC due to incomplete transposition and implementation of the Common European Asylum System. Besides, allowing transit through the state territory resulted in the procedure regarding the status of migrants upon entering the RC in the period of crisis, and the EU Court of Justice ruled that, according to the Dublin Regulation, allowing entry and transferring migrants to neighbouring countries was de facto irregular entry. Such ruling, due to the expiry of deadlines and appeals submitted, did not result in a large number of applicants for international protection who were returned to the RC under the Dublin Procedure, and thus it did not significantly impact the increase in the number of applicants in 2017. Namely, out of 677 applications granted based on the Dublin Procedure, only 249 were returned to Croatia. This decision will certainly be used as a framework for future procedures in case of major migrant movements, which might not be solved by receiving migrants and organizing their transfer to the desired destination countries.

Upon scaling down to national legislative frameworks, and thus the Common European Asylum System, the EC framed its migration policy within the European Migration Programme and four previously defined pillars that tried to relieve the pressure imposed on the EU member states. It included reducing motivation for illegal migration, border control, sound common asylum policy and a new policy on legal migrations, while insisting on relocation and transfer based on solidarity, in order to unburden the states of first entry, EU member states.

Distribution by relocation proved as a slow and inadequate response, and bringing actions before the EU Court of Justice against the EU Council's Decision on Relocation shows the resistance of the member states towards receiving the applicants, which may have a major impact on integration, and even cause secondary migrations, of forcibly received persons.

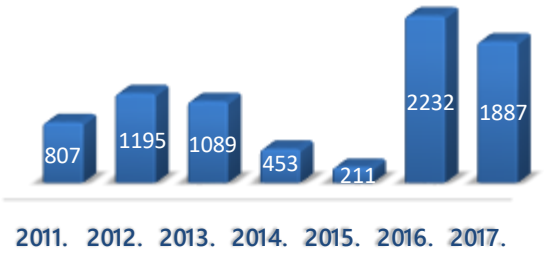
Although faced with further insisting on the application of the Dublin Regulation and the principle of solidarity in the distribution of migrants, i.e. refugees, the competent authorities of the RC still do not find it necessary to adopt a new migration policy. The key argument is the harmonization of the national legislation in the area of migration with the EU acquis, by which all the other aspects of contemporary mixed migratory movements are ignored, especially integration, which is discussed in more detail in the chapter on discrimination on the grounds of race, ethnicity or colour and national origin.

Applicants for international protection

One of the consequences of migratory movements is the increase in the number of applicants for international protection in the RC compared to 2015, which also needs to be seen in the context of amendments to the legal framework. Namely, the Act on International and Temporary Protection introduces early recognition of the status of applicant for international protection in relation to the Asylum Act, which begins with the migrant's expression of intention at the police station, and not after the application has been submitted. Namely, persons who expressed the intention to seek international protection at the police station, and who did not check into the Reception Centre for Asylum Seekers (RCAS), were not counted as applicants before the amendments of the Act in 2015, but instead had the status of irregular migrants.

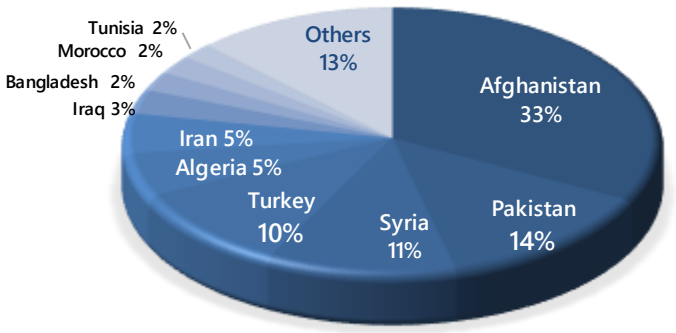
However, in 2017 there were 15.46% fewer applicants for international protection than in 2016, with the gender and age structure not differing significantly from the one in the previous years, characterized by a high percentage of men aged 18 to 34 (44.22%) and children (23.16%). Out of 1887 applicants, 517 were children, among which 261 unaccompanied, and only 26 decisions were issued, three positive ones (one asylum and three subsidiary protections) and 22 suspension decisions. In order to protect the interests of children and find the best care possible, as well as due to the need for an early integration, solving their applications should be a priority.

NUMBER OF APPLICANTS FOR INTERNATIONAL PROTECTION IN THE RC



The number of decisions issued in relation to the number of applications, as well as their structure, show the continuation of the predominant trend of issuing suspension decisions, because the applicants would not check in at the RCAS, or leave it before the end of the procedure or withdraw the application for international protection. Therefore, in 2017 the percentage of such decisions amounted to 83.35%.

APPLICANTS FOR INTERNATIONAL PROTECTION BASED ON CITIZENSHIP



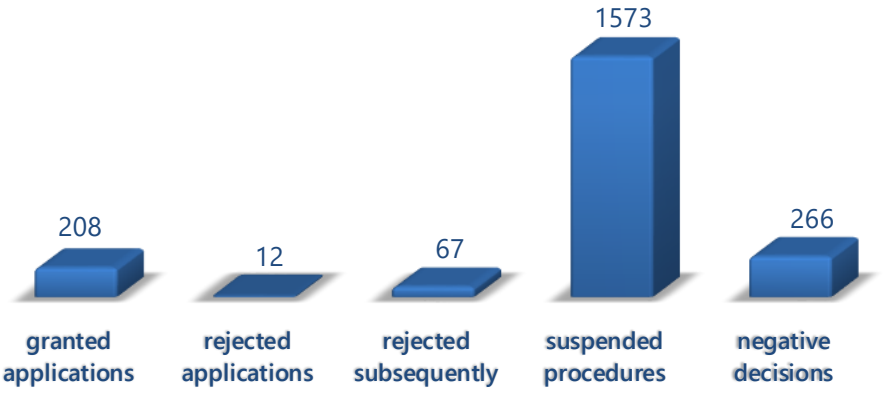
In 2017, decisions were issued for the total of 2,126 applications, which is also a progress compared to the previous years. Namely, 793 pending applications were transferred to 2017, so hiring 21 employees to work on the reception of migrants and procedures of granting international protection can certainly be seen as a positive example of how to respond to the challenges of migratory movements. However, given the duration of the procedure and

pending applications of unaccompanied children, hiring additional employees should be considered.

The year 2017 was also characterized by MoI's rejections of applications for international protection due to so-called security threats, based on the opinion issued by the Security and Intelligence Agency (SIA), thus out of 266 negative decisions, 66 refer to the exclusion from international protection due to security threats. Consequently, 202 lawsuits were filed before administrative courts, and 55 against decisions issued precisely due to security issues.

Pursuant to the Act on the Security Intelligence System of the RC, security vetting is performed for persons obtaining Croatian citizenship and for foreigners whose stay is important for the security of the country, while the Security Vetting Act stipulates that the SIA issues to the applicant, in this case the MoI, only an opinion on the (non-)existence of security threats, which is extremely problematic in the procedure of granting international protection. Due to the circumstances and causes of leaving the country of origin, the applicants cannot return to it, so the reason for denying residence in the country of reception is particularly important. This is especially true when the MoI assesses that there is a great possibility that the applicant could be faced with the risk of suffering serious injustice, torture, inhuman or degrading treatment or punishment in the country of origin. Yet, it still rejects the application, solely based on the opinion issued by the SIA, without even looking at its content. Additionally, such decisions also order them to leave the EEA, which may constitute a violation of the principle of non-refoulement. In the decisions of administrative courts it was found that the MoI incorrectly or incompletely established the facts of the case during the administrative procedure. Namely, the reasons for refusing international protection were not the ones that could be brought into connection with the exclusion from asylum or subsidiary protection, and which are prescribed by the AITP. It is therefore necessary to issue decisions on international protection on the basis of a fully established factual situation, after reviewing the opinion issued by the SIA on the existence of security threats and by stating the reasons for exclusion from asylum or subsidiary protection. This is also supported by the case law, which often annuls decisions of the MoI and sends them back into the procedure or modifies them and grants the asylum, which is also discussed in detail in the chapter on combating discrimination at national level.

THE STRUCTURE OF COURT DECISIONS BY ACTIONS BASED ON REJECTION OF INTERNATIONAL PROTECTION FOR SECURITY REASONS



In addition, security vetting is carried out on the basis of Security Vetting Questionnaire, an integral part of which is the consent for the procedure which needs to be filled out in person, and voluntarily signed by the person for whom it is being used, which will be elaborated in more detail in the chapter on statutory rights. However, the applicants do not fill it out or sign the consent, which is in contradiction to the Security Vetting Act.

Other difficulties faced by the applicants for international protection in exercising their rights, especially the right to health care, work and education in the integration processes, are discussed in more detail in the chapter on discrimination on the grounds of race, ethnicity or colour and national origin.

Migrants in irregular situations and access to international protection

"I insisted on asylum, but they got angry and started yelling at us, they told us to go back to Serbia without turning back. I lost hope and asked them to allow us to stay there at least for the night and told them we would go back to Serbia in the morning. It was dark and we were very tired and small children could not walk any more and they were very hungry as well. Also, it was very cold and children were shaking. But they did not want to listen to us and made us walk."

The agreement between the EU and Turkey reduced the number of migrants and refugees coming to Croatia through the so-called Balkan route. However, due to reapplication of the Dublin and EURODAC Regulations, which also meant scaling down to the frameworks of the national legislation, stricter border controls were implemented in the states on the route from March 2016. The position of the RC is particularly sensitive due to several reasons. The wire fence erected along the Hungarian-Serbian border prevented migrants from accessing not only the territory, but also international protection in Hungary. On the other hand, Serbia took a so-called liberal approach in dealing with migrants, which implies insufficient control of their entry and movement, thus there are numerous informal gathering places along the border with Croatia and almost non-existent state border protection measures. Also, since the beginning of the refugee crisis in relation to the citizens who mostly move along the route, the agreement between the Croatian and Serbian Government on delivery and reception of persons whose entry or stay was illegal, was suspended. Therefore, the RC became solely responsible for resolving the status of such persons, be it in regards to the application for international protection or implementing return measures, and in cases when it was undoubtedly established that they entered from Serbia. All of this, paired with the Croatian strategic goal of joining the Schengen area, which implies efficient protection of the state border, also the external border of the EU, posed additional challenges before the MoI.

Despite repeated requests, we did not get detailed information from the Ministry of the Interior about the conducted investigations and their results, and the Ministry limited the verification of allegations only to the review of records that do not even exist, for example on prevention of illegal entrance.

In such circumstances, the end of 2016

and beginning of 2017 were marked by a series of allegations from civil society organizations and the media about the return of persons to Serbia without conducting the procedure provided for in the Foreigners Act, according to which, depending on the return measure, a decision should be issued, and procedure should be conducted on an individual basis with interpreting provided. However, many migrants testified that they were not allowed to apply for international protection, although they wanted to, and during their return the procedures provided for in the FA were not followed. Moreover, documented complaints included allegations that Croatian police officers beat them with bats, made them take their shoes off and kneel or stand in the snow, made them pass through a cordon where they would be beaten and insulted. During such events they were not allowed to speak, and some testimonies state that their valuables were taken from them, including money and mobile phones. Considering the number and content of these allegations, which also provide the dates and places where the migrants crossed the state border, as well as the medical documentation, the Ombudswoman's Report from 2016 warned that such conduct could constitute the violation of Article 3 of the ECHR, according to which no one shall be subjected to torture or to inhuman or degrading treatment or punishment, and warned about the necessity of conducting an effective investigation that must be adequate, detailed and conducted with due diligence. After the warning about the need to act on an individual basis and conduct procedures in accordance with the FA and AITP, the MoI stated that legal procedures are regularly implemented, with full respect of human and refugee rights, in accordance with the Universal Declaration of Human Rights. It also stated that it regularly implemented trainings for police officers on the protection of migrants' rights, and that the number of police officers on the border with Serbia was increased, which was primarily aimed at deterring illegal entry.

However, despite repeated requests, we did not get detailed information about the conducted investigations and their results. Namely, the MoI limited the verification of such allegations only to the review of its own records, which were not kept for prevention of illegal entrance, for example, or to the records from health care institutions in the Vukovar-Srijem Police Administration in which migrants avoid seeking help. Moreover, when we tried to verify the allegations made by an unaccompanied child about the police use of force, by directly checking thermal imaging cameras that showed the exact date and time of the event, we found that the part of the recording made at the time of the event was missing. The MoI stated that this technical system was intended primarily for border control, and not for temporary or permanent recording of events, and therefore no special rules were prescribed regarding storing and deleting records. However, it remains unclear why the MoI did not use all means that could eliminate the suspicion about the illegal conduct of police officers, regardless of their purpose. Although in 2017 the Ombudswoman stopped receiving allegations about such conduct, there was an increase in the number of complaints and allegations from CSOs about the return of migrants apprehended close to border crossing with Serbia without using procedures provided for in the FA, as well as about preventing them to seek international protection.

One of the complainants stated that he came to the RCAS with the intention to apply for international protection, however, he was instructed to report to the police station. Upon arrival, he was detained and was not able to apply for international protection, but was taken to another police station or

facility in a police vehicle, and then to the border with Serbia, where he was instructed to return to Serbia, but not through the border crossing. The MoI's Report states that he was apprehended in irregular stay together with another person at the police station's address, that he did not apply for international protection and that, after the decision on return was issued, he left the premises of the police station, with a note that no information was received from border crossings that the left the territory of the RC, as was ordered by the decision.

By conducting further investigation at the police station and reviewing the case file we found that the reply of the MoI to the Ombudswoman was misleading, incomplete and inadequate, and subsequent explanations did not clarify the motivation for submitting such reply. Namely, the complainant was treated in accordance with the orders of the Illegal Migration Department of the General Police Directorate from 25 November 2016, which state that all irregular migrants apprehended within the territory, Afro-Asian citizens, who illegally enter Croatia from Serbia, and who are apprehended on the territory of the Zagreb Police Administration, must be escorted to the Tovarnik Police Station and handed over to the head of the shift on duty for further treatment. Unfortunately, although there is a written record of this order, even after repeated requests based on the Act on the Ombudsman, we did not receive the order, and the MoI repeatedly denied its existence. Additional instructions accompanying the order state that police stations are obliged to fill out the form no. 6 (declaration of identity for foreigners without identification documents) and return decision on the form no. 11, as well as to inform the Detention and Escort Unit on the need to escort the foreigner to the Tovarnik Police Station.

Although there is a written record of the order issued by the Illegal Migration Department of the General Police Directorate from 25 November 2016, even after repeated requests based on the Act on the Ombudsman we did not receive it for review, and the Ministry of the Interior continuously denies its existence.

A series of internal correspondence between the Zagreb Police Station and Zagreb Police Administration, as well as other documentation enclosed with the reviewed documents, show a systematic conduct in line with the given order, also confirmed by the review of documentation at the Detention and Escort Unit of the Zagreb Police Administration. However, the Tovarnik Police Station and Vukovar-Srijem Police Administration were not able to provide the Ombudswoman with the information on further treatment of migrants, or their approximate number, and by inspecting the Register of measures taken towards foreigners at the Tovarnik Police Station it was discovered that they were not even recorded.

Therefore, the conduct of police officers could be monitored at the police station at the site of apprehension and at the Detention and Escort Unit of the Zagreb Police Administration, but not after the officer on duty from the Tovarnik Police Station took over the migrants. The time they were released was especially hard to determine. We were therefore unable to obtain the data on the number of migrants treated in accordance with the given order for the period from 25 November 2016 to 15 February 2017.

In this way, during this time, all the foreigners to whom the return decision was issued with a deadline to voluntarily leave the RC, who were then transported in police vehicles (vans and even buses!) to the territory of another police administration that does not have the necessary documentation about

their reception nor can provide any information, were deprived of liberty without legal basis by this police conduct, which certainly constitutes the violation of the Constitution, ECHR and AA, as well as other international and national regulations governing deprivation of liberty.

The order of the General Police Directorate from 15 February 2017 introduced a new treatment of irregular migrants apprehended within the territory, which ordered all police administrations to escort irregular migrants to a police administration at the external border with a prior written announcement, regardless of the place at which they were apprehended. The police administration at the external border was then competent to define all the circumstances of their entry and stay. However, if the police administration that apprehended irregular migrants within its territory assessed that the escort to a police administration at the external border would not be useful for strengthening the external border control measures, it could conduct the procedure in accordance to the FA on its own.

From 15 February to 24 November 2017 (unfortunately the MoI did not provide us with full data for 2017), following the aforementioned order, the Tovarnik Police Station carried out the so-called summary procedure on 1,116 persons and issued return decision to all of them, and Bajakovo border crossing to 1,473 persons. Following the order, all case files included the printed form no. 6 (Declaration of Identity), foreigner's photograph, return decision on form no. 11, signed delivery note and official record. A copy of the official record was also submitted to the police officers at Tovarnik Police Station with the following statements: "the foreigner has no visible injuries and has not complained about his/her health", "it was determined that s/he speaks Arabic/Pashto and can communicate in English, an interpreter for this language was contacted but was unable to report to the Tovarnik Police Station, therefore an interview in English was conducted with the help of Google Translate, and during the entire procedure the foreigner did not express an intention to apply for international protection". Each reviewed file of the so-called summary procedure had an official record almost identical to the one above.

After such procedure, in which everything is assumed beforehand and an interpreter is not even contacted, a decision on voluntary return is issued, with a deadline by which the foreigner has to leave the RC, i.e. the EEA. Issuing a return decision in such circumstances does not allow irregular migrants to present all the circumstances important for issuing the decision, in due time and with an interpreter, in accordance with Article 30 of the APA. This also constitutes the violation of Article 7 of the APA, which refers to providing help to an illiterate party, or the recommendations from the trainings organized by the MoI on the treatment of migrants.

The review of the files found that, in the majority of them, the procedure was carried out on multiple persons, even 50 at once. Return decisions were issued, and the actions taken were described in a very short official record, which, besides the statements from the above given sample, also contained their names and a couple of sentences about how they crossed the border. Moreover, such very short official records on the implemented procedures were also made in cases of groups with unaccompanied children. They evidently show that social welfare centres or special guardians were not contacted, children were not taken to a mandatory medical examination, and it is especially not evident how family relationships within the group were established. It is therefore assumed that this was also defined only on the basis of the statement of an older group member, which again brings

into question the procedures for determining the best interest of the child and their protection from potential human trafficking. The MoI was warned about this in June 2017 and we were informed that they proceeded accordingly and warned the police administration about consistent implementation of the Protocol on Treatment of Separated Children – Foreign Nationals.

Additionally, because the new Tovarnik Police Station was under construction, the entire procedure was taking place in replacement, unfit premises on a road crossing. Migrants were kept in a police vehicle in front of the station for a few hours, without direct access to drinking water and toilet, which is contrary to CPT standards on the treatment of detained and apprehended persons. Also, a random selection of video recordings at the Tovarnik Police Station showed that persons who were brought there and who were processed did not even enter the station building, but were kept in a police vehicle the entire time, and after the completion of the procedure were not released, but taken away in the same vehicle. Such detention, discussed in more detail in the chapter on police treatment, may be seen as degrading treatment.

Also, migrants with no identification and travel documents, whose countries of origin have no diplomatic and consular missions in the RC where they could obtain necessary documentation on the basis of the issued return decisions, cannot legally leave the territory of the RC. It can therefore be concluded that there is no intention to solve the key issue, but that these are intentionally issued as formal legal acts. Namely, in the given situations, issuing a return decision is not useful nor it includes voluntary elements if activities foreseen by Article 121 of the FA are not taken. The Article foresees that the MoI can, in order to encourage voluntary returns, make agreements, obtain travel documents and travel tickets and make financial payments in order to enable and encourage voluntary returns. Implementation of these actions and imposing less coercive measures provided for in the FA, as well as providing accommodation, at least for vulnerable groups, would greatly contribute to the protection of migrants' rights, but also ensure enforceability of the decision.

According to the records of the Ministry of the Interior, on the basis of 3,107 issued return decisions only 1,025 persons legally left the Republic of Croatia, which does not contribute to the protection of their rights, let alone the protection of security and Croatian national interests, which the Ministry of the Interior constantly calls for.

Also, when a return decision is issued within the described, so-called summary procedure, it does not take into consideration the provision of the APA according to which the ministries, within their scope of activity, supervise how administrative matters are solved and ensure the legality, effectiveness and purposefulness of the administrative procedure. That is, since decisions that cannot be performed in a legally envisaged way are being issued, the given procedure is contrary to the principle put forward by the APA.

The explanation given by the MoI on the change of approach before and after 15 February refers to the necessity for migrants to show where they crossed the state border, so that future irregular entries could be prevented. However, due to the manner and circumstances under which they cross the border, it is not likely that they would be able to show precisely where they crossed it, and besides, the files did not contain documents that would prove that these actions were taken in the procedure, whereas they were precisely what the MoI stressed as particularly important and thus justified the motivation for change in the treatment of migrants. From the file documentation one can conclude

that migrants are being transported for hundreds of kilometres, only to have police officers ask them about the manner in which they crossed the state border, although they were asked the same question at the police station where they were apprehended, and again during a procedure in which an interpreter was not provided. Additionally, migrants who were apprehended close to the state border with Bosnia and Herzegovina and Serbia, for example at Beli Manastir or Stara Gradiška border crossings, were brought to the Tovarnik Police Station and Bajakovo Border Crossing, and it was assumed that they had crossed the border at Tovarnik or Bajakovo.

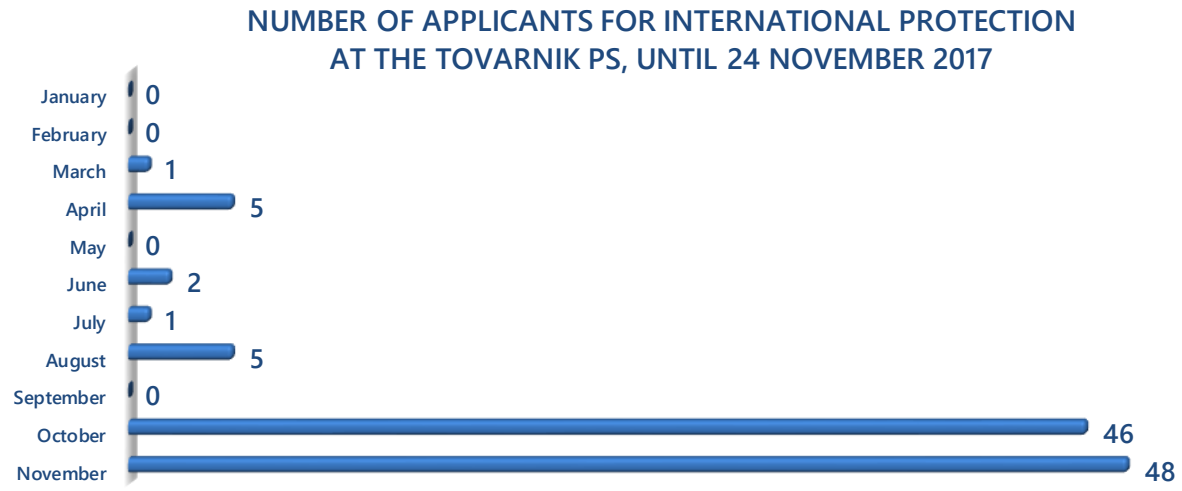
Also, after reviewing individual summary procedures taken at the Tovarnik Police Station, in relation to all the police administrations from which irregular migrants were brought, we found that none of the files contained fingerprints, which were not even taken at the police station at the place of apprehension. Besides browsing through albums with hundreds of photographs, there is no other way to clearly identify persons to whom return decisions were issued after they left the Tovarnik Police Station or Bajakovo Border Crossing. This leads to the conclusion that in the RC there is no system that could be used to monitor their movement and status, i.e. see whether they crossed the state border towards Serbia or stayed in Croatia, which certainly does not contribute to the protection of their rights, let alone the protection of security and Croatian national interests, which the MoI constantly calls for. This is especially important because, according to the records of the MoI, on the basis of 3,107 issued return decisions only 1,025 persons left the RC legally.

Thus, according to the data of the Vukovar-Srijem Police Administration, from February to November 2017, 1,116 irregular migrants were brought from other police administrations to the premises of the Tovarnik Police Station, designated for the treatment of irregular migrants and applicants. For example, 303 migrants were brought in from the Osijek-Baranja Police Administration. However, the review of cases from November, October and September showed a significant disparity between these data and established facts, because 401 irregular migrants were brought to the Tovarnik Police Station only from the Beli Manastir Border Crossing.

By visiting the Tovarnik Transit and Reception Centre we found that irregular migrants were placed there after the treatment at the Tovarnik Police Station, i.e. after decisions on expulsion and the restriction of freedom of movement had been issued. Pursuant to the Regulation amending Regulation on the Internal Organization of the MoI, irregular migrants with restricted freedom of movement should be placed in reception and transit centres, such as Trilj and Tovarnik, because they were apprehended at illegal border crossing, until they are transferred to the Foreigners Reception Centre or forcibly returned on the basis of readmission agreement. However, the FA refers exclusively to the Foreigners Reception Centre, so it is not clear how the competences of police stations were extended to transit and reception centres. The explanation given by the MoI, that the concept of foreigners reception centre in the FA is a generic one since it was used in plural and with a small first letter, and that it refers to all centres in which restriction of the foreigners' freedom of movement is imposed, is not correct. Namely, Article 115(1.8) states that the provisions of the FA refer to the "Foreigners Reception Centre" and it is thus necessary to amend the regulation in order to regulate the treatment of irregular migrants whose freedom of movement is restricted due to their placement in transit and reception centres. This would ensure the legality of police treatment, as well as legal

certainty of irregular migrants, especially in regards to potential longer restriction of freedom of movement, which is also not regulated.

In the procedure of issuing decision on expulsion/return at the Tovarnik Police Station and decision on restricting the freedom of movement by placing them at the Tovarnik Centre, the basic parts of the decisions are translated to the foreigners to the language they understand. However, the procedures themselves are conducted without an interpreter for the language which one justifiably presumes they understand and in which they can communicate. When an interpreter from the list cannot come to a police station, translation is provided using technological tools, primarily "Google Translate". First, the irregular migrant is treated in accordance with the FA, then a decision on expulsion is issued and then his/her freedom of movement becomes restricted by placing him/her at the Tovarnik Centre. After all this, the irregular migrant expresses the intention for international



protection. If the migrants were informed about their rights, especially the right of applying for international protection, during the procedure and in a language they understand, this could be prevented and thus ensure urgent protection of vulnerable groups. Namely, according to the data collected on the ratio between persons placed at the Tovarnik Centre and the number of issued decisions on accommodation, it is apparent that these are primarily families with children, and the increase in number of applications for international protection coincides with the initial placement of irregular migrants in the Centre, where they probably received adequate information about solving their status. It is therefore very important that migrants, and especially vulnerable groups, in procedures in which return decision are issued, are informed in clear and adequate way about the possibility of applying for international protection in the RC.

During and after all conducted investigations and visits, especially regarding complaints about access to international protection, the Ombudswoman sent a number of warnings and recommendations to the MoI, especially emphasizing the obligation of conducting urgent and effective investigation and implementation of 2015 CPT standards that point out that there must be a clear understanding that responsibility for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill treatment is occurring and fails to act to prevent or report it.

STRUCTURE OF APPLICANTS FOR INTERNATIONAL PROTECTION AT THE TOVARNIK PS

		AGE			TOTAL
		under 14	14-17	18 and older	
CITIZENSHIP	Afganistan	18	3	29	50
	Algeria			3	3
	Iraq	2		2	4
	Iran	3		6	9
	Cuba			1	1
	Pakistan			3	3
	Russia			1	1
	Syria	3		27	30
	Tunisia	1		1	2
	Turkey				0
	Uzbekistan	3		2	5
TOTAL		30	3	75	108

It is therefore particularly worrying that the MoI is persistently refusing to re-examine the previously described treatments of irregular migrants apprehended within the territory, as well as the lack of clear communication on the conducted activities following the complaints of international organizations and CSOs about the police conduct. It includes returning migrants to Serbia, sometimes even without any treatment, ignoring their requests for international protection, that is, sometimes taking them directly to the green border and instructing them to cross it, even using force at times. Arguments used by the MoI, that all migrants' statements about the police conduct are probably false and motivated by being prevented to reach their destination countries, are inadequate, general, unacceptable and do not meet the requirements of an effective investigation.

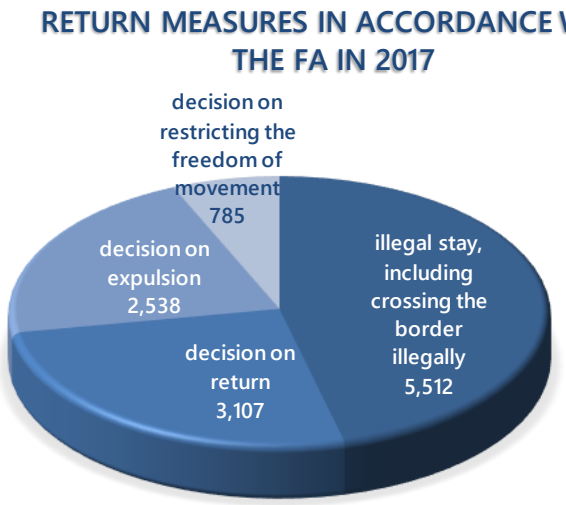
Precisely this failure to conduct an appropriate investigation raised some suspicions regarding the death of a little girl on the border with Serbia. Namely, the complaint filed by her mother contained similar statements to the ones filed to CSOs and the Ombudswoman, which were never thoroughly investigated and which point to systematic implementation of procedures in the above described manner. Namely, the mother said that she decided to enter Croatia together with six children aged 15, 8, 6, 3 and 2. She crossed the two state borders on 21 November 2017 around 17.00, and walked for another hour before spotting police officers and seeking asylum. However, they instructed her to go back to Serbia and return next month. After she insisted on seeking protection, according to her statements, the police officers got angry and started yelling at her to return to Serbia. She then asked them to spend the night in the RC because the children were exhausted, but they did not listen and forced them to keep walking, and after a while a police vehicle arrived and drove them back, close to the railway, after which the police officers told her to follow the railway to Serbia. Soon after, a train killed her six-year-old daughter Madina. Since the family pressed charges, the Ombudswoman notified the State Attorney General, Croatian Parliament and the public about the information she collected during this, but also previously conducted procedures.

When the highest ranking officials of the Ministry of the Interior publicly accuse the Ombudswoman by saying that these issues should not be communicated with the public, because this is not in line with the political priorities of the Republic of Croatia, it represents a direct pressure imposed by the executive power on the work of an independent national human rights institution.

We would like to mention that the Ombudswoman and the MoI are in regular communication and that the Ministry provides replies and responds to all inquiries in a timely manner. However, in terms of content they are often quite inadequate, generic, and sometimes, like in the case of the complaint we described earlier, even misleading, obviously in an attempt to cover the real conduct and obstruct the activity of the Ombudswoman in accordance with legal authority.

Also, when the highest ranking officials of the MoI publicly accuse the Ombudswoman by saying that these issues should not be communicated with the public, because this is not in line with the political priorities of the RC, this is a direct pressure imposed by the executive power on the work of an independent national human rights institution. Namely, Articles 19 and 27 of the Act on the Ombudsman stipulate that the Ombudsman informs the Croatian Parliament and the public about the perceived and established cases of violation of human rights and freedoms, and about the cases of major violation or threat to human rights or failure to take measures in accordance with the recommendations.

In conclusion, reduction of migration pressure cannot be expected in the near future because the international community has not adequately responded to the causes of migration, which are truly complex, and among others, involve numerous wars and conflicts on the African and Asian continent, as well as long-term insecurity, poverty and fear. The characteristic of all countries to which the migrants arrive, be it transit or destination countries, is reluctance to accept them. This fear is probably also conditioned by the EU's slowness in migration management, as well as by the proposed solutions, which obviously many countries have no confidence in, especially in relation to the proposed measures for unburdening the countries of entry affected by increased irregular entries and applications for international protection, and which, thus far, have not proven effective. Therefore, the majority of countries resort to stricter state border control, however, this does not really slow down migrants on their way to destination countries, but it does put them in the hands of smugglers and traffickers to a much higher extent.



Despite increased state border control and a large number of police officers engaged in its protection, data on the number of applicants and irregular migrants in the RC in 2017 does not differ significantly from the ones in 2016. In the RC, 5,512 persons were apprehended in irregular stay, whereas 1,887 applied for international protection, which shows that closing the borders is not an answer to migration pressure, because it does not take into consideration the migrants' rights, which is why more effort is needed in promoting and advocating legal paths of migration and mobility.

We are aware of the difficulties arising from the territorial approach to the asylum system, which, together with the current framework of the Common European Asylum System and migration management, puts the RC into a difficult position. State border protection, which is also the external border of the EU, as well as the security of all citizens, is extremely important for national security and represents a legitimate political interest as a part of the Schengen evaluation process and assessment of the readiness of the RC to join the Schengen area. However, all activities must be carried out taking into account migrants' rights, especially enabling the access to international protection and individual treatment, in accordance with Article 13 and 14 of the Schengen Code, paired with effective implementation of return measures, in accordance with the FA.

4.6. INTERNATIONAL COOPERATION AND CAPACITIES FOR THE PERFORMANCE OF TASKS OF THE NPM

International Cooperation of the NPM

As in previous years, we were also active on the international level in 2017 and participated in the meetings of the South-East Europe NPM Network and EU NPM Forum.

Within the South-East Europe NPM Network, we participated in conferences in Belgrade on persons with mental disorders in detention, in Podgorica on healthcare in prisons and psychiatric institutions, and at the Network meeting in Belgrade which presented methodologies of work of the national and international bodies for preventing torture and other cruel, inhuman or degrading treatment or punishment.

We also made our contribution at the IPCAN Network Conference in Strasbourg on the topic of "Complaints about Police and Protection of Human Rights in the Context of Anti-Terrorist Policies", we were active at the EU NPM Forum meetings and at the invitation of the Council of Europe we participated in an international conference in Tunisia, focused on strengthening the capacities of newly-established NPMs.

We also participated in the FRA Conference in Vienna on the topic of detention of children migrants, on the training of trainers for forced-return monitoring and in the conference on forced return monitoring and annual reviews held in Athens, organized by FRONTEX, ICMPD and FRA.

In 2017, the Office organized two study visits on the NPM work methodology: together with the Slovenian delegation we visited the Zadar Prison, and with the Moroccan delegation we visited the Split Prison and the Detention Unit of the Split-Dalmatia Police Administration. During the fifth regular tour of the RC, we held a meeting with the CPT representatives at the Office of the Ombudswoman, during which they were informed about the issues in the area of NPM activity, and we also maintained regular collaboration with the SPT.

Capacities of the Office of the Ombudswoman for the performance of NPM tasks

In 2017, tasks of the NPM were performed by a total of eight advisors, who also acted on the complaints of persons deprived of liberty, and a new deputy Ombudswoman was appointed. This year, one person was hired at the Department for Persons Deprived of Liberty and NPM in the

Split Regional Office, thus strengthening the capacities of the NPM, in accordance with the CAT recommendations.

For special activity of the NPM, HRK 138,781.00 were allocated within the Office's budget from the state budget for 2017, the same as in 2016. The allocation of HRK 153,781.00 is foreseen for 2018, which is 10.8% more than in 2017, not including the expenses for employees.

RECOMMENDATIONS:

Persons deprived of liberty who are in the prison system:

193. To the Ministry of Justice, to adapt accommodation conditions in all penal institutions to comply with legal and international standards;
194. 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;
195. To the Ministry of Justice, to draft a proposal of the amendments to the Act on Execution of the Prison Sentence and necessary amendments to the Criminal Procedure Act that pertains to execution of remand imprisonment;
196. To the Ministry of Justice, to fill in systematized job positions in penal institutions;
197. To the Ministry of Health and Ministry of Justice, to provide supplemental health insurance for all prisoners who meet the requirements at the expense of the state budget;
198. To the Ministry of Justice, to adapt the space and equipment in the medical facilities of penal institutions to comply with the Ordinance on Minimal Conditions in terms of space, staff and medical and technical equipment of medical institutions that provide health care to persons deprived of liberty;
199. To the Ministry of Justice and the Ministry of Health, to make proposals for the necessary legislation amendments that would enable healthcare of prisoners to be covered by the public healthcare system;
200. To the Ministry of Justice, to consider the possibility of hiring a maximum number of people on jobs that do not require special qualifications and medical fitness;
201. To the Ministry of Justice, together with the Ministry of Health, to draft guidelines on the basis of which physicians employed within penal institutions could issue opinions regarding the work of prisoners;

The police system:

202. To the Croatian Government, to propose the establishment of effective civil supervision over police work;
203. To the Ministry of the Interior, to use means of coercion only to the extent necessary to achieve the purpose of their use;
204. To the Ministry of the Interior and the State Attorney's Office, to carry out an effective investigation ex officio of the allegations on possible police violence;

205. To the General Police Directorate, to monitor the implementation of police officers' duty to notify the management on all situations in which coercion measures are used, so that justification of its use could be made;
206. To the Ministry of the Interior, to establish video surveillance in all premises where persons deprived of their liberty are located, and to keep the records for the duration of the deadline in which citizens can file complaints about police treatment;
207. To the Ministry of the Interior and General Police Directorate, to enable medical treatment to detained persons initiated before the deprivation of liberty;
208. To the Ministry of the Interior and General Police Directorate, to consider the introduction of training for police officers specialized in the treatment of persons with mental disorders;
209. To the Ministry of the Interior and General Police Directorate, to adapt accommodation conditions in facilities for persons deprived of their liberty to comply with legal and international standards;
210. To the General Police Directorate, to issue the assessment of justification and legality of the use of coercion measures within 24 hours of receipt of a written report;
211. To the Ministry of the Interior and General Police Directorate, to provide three meals in cases when apprehension lasts for 24 hours;
212. To the Ministry of the Interior and General Police Directorate, to organize work processes so that detention supervisors can only be focused on that one task and not perform tasks at the operational and communication centre at the same time;

Persons with mental disorders who are in psychiatric institutions:

213. To the Ministry of Health, to adapt accommodation conditions in all psychiatric institutions to comply with legal and international standards;
214. To the Ministry of Justice, to draft a proposal of the amendments to the Act on Protection of Persons with Mental Disorders;
215. To the Ministry of Justice and the Ministry of Health, to draft legislation amendments to ensure that the costs of involuntary detention and involuntary institutionalization in a psychiatric institution are paid from the state budget;

216. To the Ministry of Health, for all psychiatric institutions to establish and consistently keep records on the use of coercion measures and on the treatment of persons they are used on;
217. To the Ministry of Health, to systematically organize trainings for healthcare workers on the rights of persons with mental disorders and use of coercive measures;

Homes for the elderly and infirm:

218. To the Ministry of Demographics, Family, Youth and Social Policy, to draft a proposal for necessary legal amendments that would regulate the accommodation within departments of social care institutions, which the users cannot leave voluntarily;
219. To the Ministry of Demographics, Family, Youth and Social Policy, to harmonize the use of coercive measures in social care institutions with the Act on Protection of Persons with Mental Disorders;

220. To the Ministry of Justice and the Ministry of Demographics, Family, Youth and Social Policy, to draft the proposal of necessary legal amendments that would regulate types and ways of using security measures in social care institutions;

Applicants for international protection and irregular migrants:

221. To the Ministry of the Interior, to additionally increase the number of officers at the Department for Asylum in order to speed up the process of issuing decisions regarding the applications for international protection;
222. To the Ministry of the Interior, to urgently take measures for adopting new migration policy;
223. To the Ministry of the Interior, to enable access to international protection to all migrants apprehended within the territory of the Republic of Croatia;
224. To the Ministry of the Interior, to ensure that migrants are fully informed on their rights in a language they understand when issuing decision on return/expulsion;
225. To the Ministry of the Interior, to have in mind the principles laid down by the FA and APA in the return procedures.

5. COOPERATION AND PUBLIC ACTIVITIES AIMED AT HUMAN RIGHTS PROTECTION AND FIGHT AGAINST DISCRIMINATION

5.1. THE ROLE OF CIVIL SOCIETY IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

Civil society plays an important role in the protection and promotion of human rights, building democracy and the rule of law. Back in 2013, the UN Humans Rights Council called upon Member States to cooperate with civil society organizations and create space for their participation in decision-making processes. In 2017, the Council of the European Union stressed that civil society organizations played an important role in promoting and protecting the fundamental rights in the field, their important role in fighting disinformation on the fundamental rights and that, in order to be able to fulfil these tasks, they had to be strengthened. In other words, states have an obligation to provide an enabling environment for their work and development.

Although public consultation on the Draft of the 2017-2012 National Strategy for the Creation of an Enabling Environment for Civil Society Development ended in 2017, it was not adopted by the end of the year. This was a missed opportunity to send a clear political message on the importance and contribution of civil society to the development of the RC, after 2016, in which we witnessed threats and offensive speech directed towards CSOs engaged in the protection and promotion of human rights and combating discrimination. Namely, after the institutional structure for supporting civil society development, composed of the Government Office for Cooperation with CSOs, National Foundation for Civil Society Development and Council for the Civil Society Development, had

functioned successfully for over a decade, the general public questioned its necessity for the first time, bringing into question the way funds are managed. Members of the Council for Civil Society Development from CSOs, elected in accordance with the Government Decision, were publicly accused for lack of legitimacy, and their designation was requested.

In accordance with the International Covenant on Civil and Political Rights, in order for civil society organizations to be able to contribute to social changes, it is important to enable them access to funds. According to the data provided by the National Foundation for Civil Society Development, the reduction of funds in the Ordinance on the Method of Allocation of Revenues from Games of Chance for 2016, aimed at the activities or support programmes of the National Foundation, impacted the sustainability of the approved financial support. Namely, in accordance with the 2016 Regulation, the percentage of allocation in the area of civil society development decreased by 44.23% or HRK 24,937,167.52. According to the data from the Office for Cooperation with CSOs, despite the fact that the National Foundation activated it's assets in order to cover the previously contracted liabilities, part of the beneficiaries received lower pay-outs than had been agreed, which also resulted in fewer CSO activities. Some of them informed us that, due to a decrease in funds in 2016, they had to cut down on hourly wages of their employees or even terminate work contracts. It is, however, encouraging, that the percentage of the part of the revenue from games of chance in the 2017 Ordinance, as well as in the one for 2018, in relation to organizations that contribute to civil society development, was increased to 11.18% or 11.64%, but it still not at the 2015 level (14.21%).

According to the data from the Office for Cooperation with CSOs, despite the fact that the National Foundation activated it's assets in order to cover previously contracted liabilities, part of the beneficiaries received lower pay-outs than had been agreed, which also resulted in lesser CSO activities.

Furthermore, it is important to notice that few calls for proposals were launched for advocating the protection and promotion of human rights and combating discrimination. So, for example, in 2014 the Office for Human Rights and Rights of National Minorities had HRK 700,000.00 from the budget for the activities of CSOs in the field of protection, promotion and respect for human rights, and in 2016 and 2017 seven times less, i.e. HRK 100,000.00. Still, even for such a low amount, a call for proposal was never launched in 2016, and in 2017 it was only done in September.

Although the importance of EU funds is often emphasized, only seven calls were launched with civil society organization as eligible applicants within the Operational Programme Efficient Human Resources 2014-2020 in the period from 2015 to 2017. The majority of calls referred to providing community services and not to advocating and monitoring human rights policies. Although both types of activities are necessary and important, through advocacy activities, monitoring the implementation of public policies or class actions in cases of combating discrimination, civil society organizations have the opportunity to give the voice to the most vulnerable ones – the elderly, minorities, women, children, and point to shortcomings in the implementation of legal solutions.

In 2017, CSOs pointed to difficult communication with the bodies of executive power, especially through the participation in working groups at the ministries or government offices, as well as to the lack of understanding for their work.

Long-term institutional and programmatic funding of the CSOs involved in protection and promotion of human rights and combating discrimination is an important presumption for creating an environment in which they contribute to social changes. Since the National Programme of Protection and Promotion of Human Rights 2013-2016 expired, and the Government has not even started drafting a new one, it is important to foresee measures in its development focused on improving funding policies for the CSOs active in the protection and promotion of human rights.

The possibility for participation of individuals and civil society organizations in the process of adopting public policies and laws is also foreseen in Article 25 of the International Covenant on Civil and Political Rights, and is particularly important in the context of legitimacy of the decisions made. In 2017, CSOs pointed to difficult communication with the bodies of executive power, especially through the participation in working groups at the ministries or government offices, as well as to the lack of understanding for their work. The data from e-Consultations for 2017 shows that the interest of citizens and CSOs for participation is higher than in 2016. In 2017, 5,216 natural or legal persons, of which 308 CSOs, participated in 651 open public consultations. 20,530 comments were received, of which 2,866 by CSOs. There were 3,087 accepted, 1,011 partially accepted and 5,293 rejected comments, whereas 4,560 were duly noted. However, the same as last year, the fact that 32% received comments were not answered is worrying and raises the question of the purpose of consultations and definitely does not contribute to building trust in institutions and strengthening cooperation. If we take into account that as many as 70% of the citizens in rural areas do not own a computer, and that e-services are not equally available to all groups of citizens (depending on their level of education, age, employment, income and status), it is again important to emphasize that along with online consultations, state administration bodies, local governments and legal persons with public authority must also use other methods of consultation, because they especially refer to the rights of these citizens.

RECOMMENDATIONS:

226. To the Croatian Government, to adopt a new National Strategy for the Creation of an Enabling Environment for Civil Society Development;
227. To the Croatian Government, to adopt a new National Programme of Protection and Promotion of Human Rights;
228. To the Croatian Government, to ensure long-term institutional and programmatic funding of civil society organizations for the protection and promotion of human rights;
229. To the Office for Cooperation with CSOs, to continuously educate civil servants and local government servants about civil society organizations, in cooperation with the State School of Public Administration.

5.2. COOPERATION WITH STAKEHOLDERS

In 2017 we continued our cooperation with numerous state administration bodies, independent bodies and international organizations, and especially with local governments, councils and representatives of national minorities, civil society organizations, local action groups, as well as with other stakeholders active in the protection and advocacy of human rights and combating discrimination. We also continued close cooperation with special ombudswomen as partner institutions within the framework of human rights protection and combating discrimination, and the Ombudswoman's Council for Human Rights continued with its work.

We participated in numerous conferences, at which we presented the work of the Office and substantially contributed to their conclusions. Information thereon is available at www.ombudsman.hr.

The Ombudswoman's Council for Human Rights

The Ombudswoman's Council for Human Rights was foreseen in the Act on the Ombudsman as an advisory body that considers and proposes strategic guidelines in the area of promoting human rights and liberties, ensures continuous cooperation between the Ombudsman, civil society, academic community and the media, and considers other issues important for the work of the Ombudsman in the area of promoting human rights and liberties. The members of the Council are appointed by the Ombudsman for a period of four years from the representatives of civil society, national minorities, the academia and the media.

In 2017, the Council convened twice, and these meetings were an opportunity to exchange experience on current topics regarding protection and promotion of human rights. The first meeting was held in July 2017, and the most significant topics referred to the conclusions of the International Conference "Protection of Human Rights and Strengthening Democracy in Europe", held on the occasion of the 25th anniversary of the Ombudsman Institution, and 2016 Ombudswoman's Report.

Since the mandates of seven Council members expired at the end of November, we held a meeting at which we exchanged experiences of past activities, as well as ideas for improving the Council's work. At the end of December 2017, we launched a public invitation for new members, for a period of four years, that would include one representative from civil society and two representatives from national minorities, the academia and the media.

Collaboration with Special Ombudswomen

As in previous years, collaboration with special ombudswomen encompassed both teamwork on different individual cases and the process of forwarding complaints. During the course of 2017, 144 complaints were forwarded to them to solve pursuant to their respective competences. Several joint meetings were held to discuss curent issues of protection and promotion of human rights, actions regarding complaints and collaboration in specific areas.

A new Act on the Ombudsman for Children was adopted in 2017, which unquestionably confirmed the viability of the Ombudsman for Children as an institution. Although the adoption of the new Act resulted from the Constitutional Court's Decision U-I-4301/05 that, due to formal reasons, abolished

the 2003 Act on the Ombudsman for Children, because it was an organic law that was not adopted by the majority of the representatives, this was also an opportunity to strengthen the independence of the institution, but also to additionally amend some of its provisions. In 1996, 2004 and 2014, the Conclusions of the UN Committee on the Rights of the Child, in charge of monitoring the progress made in meeting the obligations assumed in the Convention on the Rights of the Child, gave recommendations aimed at strengthening the capacity and independence of the Office of the Ombudswoman for Children.

The Principles adopted by the Resolution of the UN General Assembly 48/134 in 1993 (The Paris Principles) set out a number of very strict criteria that an institution must meet in order to obtain the status of an independent national institution. In Croatia, these criteria are only met by the Ombudsman, and in case of legal regulation of the Ombudsman for Children one should strive for a high degree of alignment with the Paris Principles for the institution to really be independent. In this regard, it is especially important that the Act regulates the Ombudsman for Children election procedure through a public call launched by the Croatian Parliament. Unfortunately, the provision by which the Ombudsman for Children and his/her Deputy, in case of non-acceptance of the annual work report, are dismissed before the expiration of their mandate is contrary to the principle of independence of the institution. Equally worrying are the provisions under which the Ombudsman for Children, at the request of the Croatian Parliament, has to submit a special report, which directly affects the independence of the institution, especially if this also becomes the ground for the dismissal of the Ombudsman for Children.

Collaboration with Civil Society Organizations

In 2012, we established collaboration, and then continued to intensify it, with five organizations active as regional anti-discrimination contact points. This collaboration was further expanded in 2017 with the election of members for the new Anti-Discrimination Contact Points Network. The purpose of the Network is also to exchange information and plan joint initiatives aimed at combating inequalities, as well as promoting equal treatment. It is composed of 11 civil society organizations (BaBe, Centre for Civic Initiatives Poreč, Centre for Peace, Nonviolence and Human Rights Osijek, Centre for Peace Studies, Contemporary Jewish Film Festival Zagreb, Association for Human Rights and Civic Participation PaRiter from Rijeka, Slavonski Brod Centre, Civic Rights Project Sisak, SOS Rijeka - Centre for Nonviolence and Human Rights in Rijeka, Serbian National Council - National Coordination of the Council of the Serbian National Minorities in Croatia and CSO Status M), selected through a public call and with the aim to strengthen the fight against discrimination at the national, regional and local level.

We also consulted numerous civil society organizations active in combating discrimination and human rights protection during the preparation of this Report, in which we included the information received.

5.3. INTERNATIONAL COOPERATION

The international conference "Reclaiming Human Rights in Europe: How to Enhance Democratic Space? ", held under the auspices of the Croatian Parliament, marked the 25th anniversary of the Act on the Ombudsman. Along with the Deputy Speaker of the Croatian Parliament, academic Željko

Reiner, full support for the independent work of national human rights institutions was also expressed by the UN High Commissioner for Human Rights, Council of Europe Commissioner for Human Rights, Director of the EU Agency for Fundamental Rights, Chairwoman of the Global Alliance for National Human Rights Institutions and Director of the German Institute for Human Rights, and many others. This conference, attended by more than 100 participants from the country and abroad, was an opportunity to discuss the most current topics in the field of human rights and discrimination in Europe: combating terrorism, freedom of expression and living together. Instead of a conclusion, the representatives of independent human rights bodies, with the support of the International Ombudsman Institute (IOI), European Network of National Human Rights Institutions (ENNHRI) and European Network of Equality Bodies (EQUINET), adopted the Zagreb Declaration that emphasizes the importance of human rights and equality, the values on which Europe was founded, as well as the role of the signatories of the Declaration in strengthening democracy and the rule of law.

Furthermore, in 2017 we also continued intensive cooperation with the bodies of the UN, EU and Council of Europe within the scope of special networks: ENNHRI, EQUINET and IOI. We continued to chair the European Network of Independent Human Rights Institutions, and in October 2017 the Executive Committee of the European Network of Equality Bodies elected the Deputy Ombudswoman Tena Šimonović Einwalter as the Chair of the EQUINET for the period of two years.

Representatives of the Office actively participated in ENNHRI working groups on legal issues, economic and social rights, sustainable development goals, communication, business and human rights, as well as in EQUINET working groups on the right to equality, strategic litigation and communication. They participated in conferences, seminars and annual assemblies of both networks, and regularly participated in research projects, as well as worked on EQUINET and ENNHRI publications. We also participated in the annual conference of the European Network of Ombudsmen (ENO), organized by the European Ombudswoman Emily O'Reilly, dedicated to increasing populism, the fallout for citizen rights from Brexit and the role of the ombudsman in successfully coping with these challenges.

The Eighth Working Session of the UN Working Group on the rights of older persons was held at the beginning of July 2017 and it was the first session with the participation of national human rights institutions and the first one dedicated to pre-selected focus areas – discrimination of older persons and their protection from violence, neglect and abuse.

The Ombudswoman participated in the Working Group meeting and concluded that the role of the NHRIs is two-fold – to bring international standards closer to the local level, but also to inform the international public about the situation in the field and offer concrete solutions. Special focus was given to violence against older persons and on this occasion we called for the adoption of the Convention on the Rights of Older Persons that would provide them with better protection.

In November 2017, final conference of the ENNHRI's projects on human rights of older persons in long-term care was held in Brussels. The conference presented the key findings of the project, as well as additional guidelines for the implementation of the human rights-based approach in care homes, aimed at policy makers, care providers and advocates for the rights of older persons. The project included national human rights institutions from Belgium, Croatia, Germany, Hungary, Lithuania and

Romania. Project results, as well as guidelines, were presented in Zagreb as a part of the discussion organized on the occasion of the International Day of Human Rights at the Home for the elderly.

The European Commission dedicated its annual colloquium to the women's rights in turbulent times, with the aim to discuss the best ways to promote and protect women's rights in the EU. The Deputy Ombudswoman and EQUINET Chair actively participated in the colloquium. During the event, the representatives of the EU institutions, scientists, representatives of independent human rights institutions and equality bodies, journalists and activists, as well as the representatives of CSOs, private sector and international organizations, discussed sexual harassment, violence against women, gender pay gap and work - life balance.

In October 2017, ENNHRI presented the report "Migrants' Access to Information on Their Rights – Recommendations to Bridge Theory and Practice" to the European Parliament, which was moderated by the Ombudswoman. The Report includes experiences from 19 migrant reception and detention facilities in 12 European countries, based on the data collected by national human rights institutions, including the Office of the Ombudswoman. Also in Brussels, the ENNHRI members discussed with the Council of Europe Commissioner for Human Rights Nils Muižnieks challenges in family reunification. Although reuniting families is one of the first steps of integration, it is often disabled.

The UN General Assembly proclaimed 2015-2024 as the International Decade for People of African Descent, citing the need to strengthen national, regional and international cooperation in relation to the full enjoyment of economic, social, cultural, civil and political rights, and their full and equal participation in all aspects of society. The Deputy Ombudswoman also participated in the second regional meeting held in Geneva in November, where she presented the EQUINET's Report or Racial or Ethnic Discrimination in Europe.

The year 2017 marked the 10th anniversary from the historic judgment of the European Court of Human Rights on the segregation of Roma children in education. On the occasion, the institutions for human rights and equality, including the Office of the Ombudswoman, called for a redoubling of efforts to bring children together in the spirit of Europe's commitment to dignity, equality and human rights. Members of the Roma national minority still face segregation in education, even in the RC, so it is very important to encourage inclusive education through the work of competent institutions.

In December 2017, the European Commission against Racism and Intolerance (ECRI) of the Council of Europe adopted Recommendation on General Policy No. 2 on the establishment and work of equality bodies. The recommendation recognizes the importance of their work and gives clear guidelines on how the members of the European Council can strengthen them. The ECRI Working Group that drafted the Recommendations was chaired by the ECRI member for Croatia, Deputy Ombudswoman Tena Šimonović Einwalter.

Republic of Croatia and international human rights protection mechanisms

In 2017, the UN Special Rapporteur on the right to health, Dainius Püras, presented his report on the right to health in the RC to the Human Rights Council. The report also included the issues and recommendations we refer to in our annual reports or case-related actions.

According to the information available to us, after the repeated recommendation, but also following the conclusion of the Committee on Human and National Minority Rights of the Croatian Parliament from the thematic session on the occasion of the 50th anniversary of international covenants, a Working Group for drafting the periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights was established at the Ministry of Labour and Pension System. However, the Government has still not adopted the said report, and we do not have any information on the drafting process, which was supposed to be submitted to the UN back in 2006. In addition, the Government did not even submit the Report on the Implementation of the Convention on the Elimination of All Forms of Racial Discrimination to the UN Committee, although it was supposed to do so in 2011.

The Government has not yet submitted the periodic report on the implementation of the International Covenant on Economic, Social and Cultural to the UN Committees, which it was supposed to do back in 2006, as well as the one on the Elimination of All Forms of Racial Discrimination, although it was supposed to do so in 2011.

Although Croatia has not yet started implementing the activities outlined in the UN 2030 Agenda for Sustainable Development, it is encouraging that the establishment of the National Council for Sustainable Development is underway. This is an opportunity for the RC to participate more actively in the UN High-Level Political Forum on Sustainable Development (HLPF), global platform for following-up and reviewing the Agenda's implementation, together with the accompanying Sustainable Development Goals (SDG's). In 2017 the focus was on "Eradicating poverty and promoting prosperity in a changing world" with the SDG1 (world without poverty), SDG2 (world without hunger), SDG3 (health and well-being), SDG5 (gender equality), SDG9 (industry, innovation and infrastructure) and SDG14 (conservation of the oceans and seas). At this meeting, 43 countries presented their national reports on progress and implementation of SDG's.

In the second half of 2018 Croatia will chair the Committee of Ministers of the Council of Europe, recognizing the fight against corruption, decentralization and effective protection of national minorities and vulnerable groups as priorities. In this sense, it is important to recognize the role of independent institutions for human rights and equality, as well as of civil society, in the international system of human rights protection.

This is an opportunity to remind of the need for ratification of key international treaties that have not been ratified, which would introduce the highest standards of human rights protection and non-discrimination to the legal system of the RC, primarily the Optional Protocol with the International Covenant on Economic, Social and Cultural Rights (ICESCR), Revised European Social Charter and Council of Europe Convention on Preventing and Combating of Violence against Women and Domestic Violence.

RECOMENDATIONS:

230. To the Croatian Government, to submit the reports to the Committee on International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of All Forms of Racial Discrimination;

231. To the Croatian Government, to initiate the ratification process of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Revised European Social Charter and Council of Europe Convention on Preventing and Combating of Violence against Women and Domestic Violence;

5.4. NARRATIVE IN THE PROMOTION OF HUMAN RIGHTS

In recent years, political discourse in the EU has been marked by growing populism, and those using it deny the universality of human rights and destroy trust in institutions, thus causing harm to the societies in which they operate. Doing so reduces awareness of wider public about human rights, so many citizens believe this term does not even refer to them. Because of that, they do not ask for protection, but also create antagonism towards the groups for which they believe human rights are exclusively intended for, such as national minorities. The result can be seen in the ever increasing polarization of the public, which, paired with a lack of quality dialogue, is a serious obstacle to the promotion of human rights, but also to their protection. It is therefore necessary to reconsider the current framework of communication used to promote human rights and equality, through activities at the national level, discussed in detail in the section about public relations, as well as by including the Office of the Ombudswoman in the analysis and finding solutions within international cooperation. All of this is part of our role in promoting human rights, in accordance with the Status A with the UN, i.e. the Paris Principles.

IOI devoted the international conference "Populism? Human Rights Regression and the Role of the Ombudsman" to the issue of the narrative on human rights. The conference warned about the danger of opposing the preservation of security on the one hand, and human rights protection on the other, since these two goals are inseparable. The Ombudswoman emphasized that it was important for the independent human rights institutions to critically analyse their own activities in the promotion of human rights, in order to respond more efficiently to the challenges posed by populist discourse. The Barcelona Declaration was adopted at the end of the conference, calling on all states to fully respect international obligations in the area of human rights, particularly in the context of security threats and maintaining public order. ENO also focused on the issue of how populism affected human rights at a conference dedicated to the role of the ombudsmen in successfully responding to this challenge, at which the Ombudswoman especially emphasized the importance of proactive action in approaching citizens.

Ombuds institutions, independent national institutions and equality bodies also confirmed their firm commitment to protecting and promoting human rights and equality by signing the Zagreb Declaration at the High-Level international Conference "Protection of Human Rights and Strengthening Democracy in Europe" organized by the Office for the Ombudswoman on the occasion of the 25th anniversary of this institution in the RC.

The work of FRA is especially important in this context, primarily due to its initiative of gathering experts involved in promotion of human rights and equality from NHRI's and equality bodies, but also from other areas, such as marketing, behavioural science or education system. One of the results of

the first meeting, also attended by the representative of the Office of the Ombudswoman, was the publication of the report with concrete recommendations for creating a narrative to promote human rights more efficiently. FRA also announced the continuation of cooperation through new meetings and creation of a platform for long-term exchange of experience and knowledge.

The EQUINET manual on strategic communication is also valuable for the promotion of equality and combating discrimination, and it is based on the importance of promoting values such as equality and social justice. The manual was prepared on the basis of experience of five EQUINET members, including the Office of the Ombudswoman.

5.5. PUBLIC RELATIONS

Stronger and more effective promotion of human rights has remained one of priorities of the Office of the Ombudswoman, as a way of raising citizens' awareness of their rights and ways of protection, but also as a way of informing the professional public about the state of human rights and discrimination in various areas of our competence. In terms of public relations these activities were based on the cooperation with the media and using our own channels – website, social networks and email.

The media showed the greatest interest in the protection of the rights of older people, followed by the research on discrimination, human rights in rural areas, enforcements, homelessness, National Plan for Combating Discrimination, ethnic discrimination, and the work of our regional offices. With proactive approach and by answering media inquiries, this cooperation was primarily established with national TV stations and major print media covering the whole of the RC, but also local media and specialized web portals and shows.

The ombudsman.hr website remained an important source of information for various publics, and along with the Ombudswoman's Report for 2016, the most-read content was the analysis of case law in cases of using the salute "Za dom spremni". We continued to send an overview of news on human rights and discrimination to more than 800 email addresses in the country, including all the Deputy Clubs and Committees of the Croatian Parliament, all public government bodies, civil society organizations, the media, institutions monitored by the NPM, interested individuals and many others.

Twitter profile @OmbudsmanHR was followed by more than 2000 users, which is an increase of 20% compared to 2016. Posts about the international conference on the occasion of the 25th anniversary of the Ombudsman institution had the highest reach, followed by the ones about the Ombudswoman's interview at the International Day of Human Rights, as well as the posts about human rights of the citizens of Split during a major fire in July. The number of views on Vimeo also increased, where our videos were viewed three times more than in 2016. Most viewed were the videos from the antidiscrimination campaign "Differences are Not Obstacles. For Society Without Discrimination".

6. HUMAN RESOURCES, ORGANIZATION OF WORK AND THE OFFICE BUDGET

Internal organization of the Office and its work

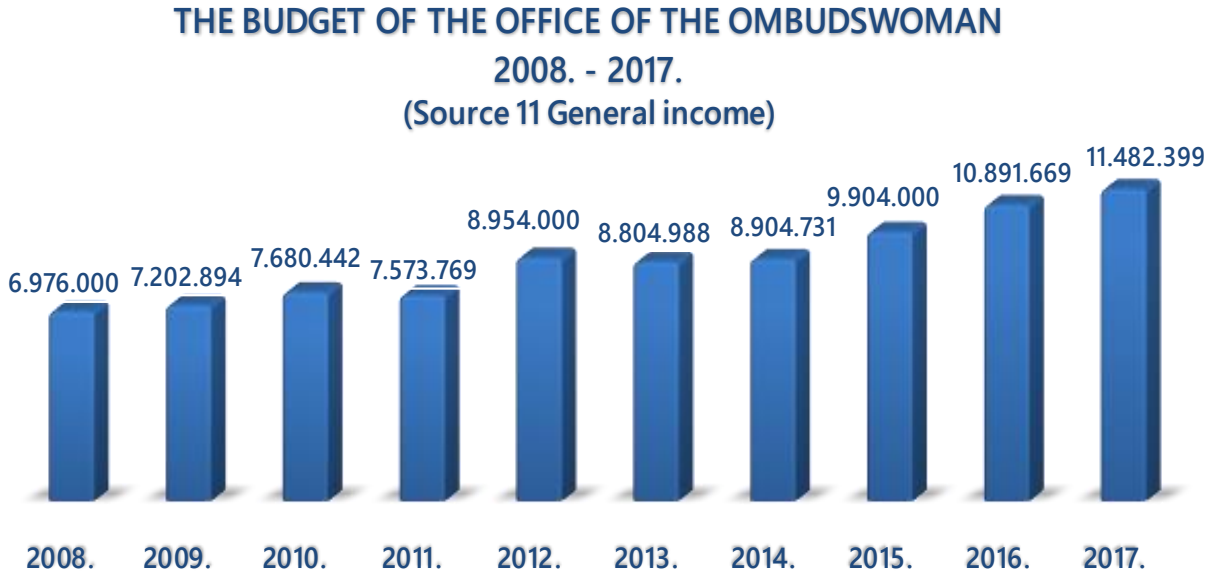
As of 31 December 2017, the Office of the Ombudswoman employed 45 civil servants and another employee, 37 of them at the Office headquarters in Zagreb, three in Split and Osijek respectively, and two in Rijeka. 38 completed university study programs, two completed professional programs and five persons completed secondary education. In 2017, five persons completed their on-the-job training at the Office, two in Zagreb and one in each regional office.

At the beginning of 2017, the Office of the Ombudswoman was managed by the Ombudswoman and two Deputy Ombudswomen. In March 2017, another Deputy Ombudswoman was appointed, for the area of rights of persons deprived of liberty and for the National Preventive Mechanism.

The budget of the Office

The budget of the Office of the Ombudswoman marks a slight increase since 2013, which is definitely encouraging, since the cases it deals with have had an even greater increase. Only by strengthening the material and financial capacities of the Office we can respond to such large increase in the number of cases and effectively perform all the tasks assigned to the institution by the Ombudsman's mandates, an independent Status A institution, central anti-discriminatory body and body for the National Preventive Mechanism. That is why it is necessary to continue to strengthen it in the future.

The Office's total expenditures in 2017 amounted to HRK 11,419,386.33 or 99.45% of the planned amount. Expenditures for the personnel expenses reached 99.70% of the planned amount, expenditures for the material expenses 98.64% and those for the intangible assets 99.81%. In relation to 2016, they increased by 5.42%, and this increase mainly referred to the expenses of organizing an international conference and a purchase of two compact-class cars for regional offices. These data refer to the funds financed from the source 11 General Revenue and Income.


THE BUDGET OF THE OFFICE OF THE OMBUDSWOMAN
2008. - 2017.
(Source 11 General income)
6.976.000
7.202.894
7.680.442
7.573.769
8.954.000
8.804.988
8.904.731
9.904.000
10.891.669
11.482.399
2008.
2009.
2010.
2011.
2012.
2013.
2014.
2015.
2016.
2017.

7. CONCLUSION

Competent bodies on all levels face the challenging task of stopping the negative demographic trends in Croatia, which is achievable, but only through concrete measures arising from long-term, sustainable and comprehensive public policies. To a great extent, this refers to raising the level of protection of legal and constitutional rights of citizens, which is the goal of the recommendations provided in this Report, prepared after an analysis of the situation and assessment of human rights and freedoms, based on information and data provided by a wide circle of stakeholders and, first and foremost, citizens' experiences. Systemic problems citizens face on a daily basis remain more or less the same, with their complaints showing a lack of trust of the institutions and unawareness of their own rights, thus reinforcing the feeling of injustice, inequality and of being unprotected.

Access to the judiciary is hampered by the lengthiness of proceedings and an almost collapsed system of providing free legal aid, while the right to health is threatened by ever-growing waiting lists. Many employees find themselves in a precarious situation, facing unpaid work and discrimination, while many pensioners cannot ensure even the basic conditions for a life in dignity. These, and many other problems are particularly present in rural areas, especially among those who are at risk of poverty. The national minorities still encounter difficulties in exercising guaranteed rights, which are often questioned in general public, with hampered integration of some of them in the society giving a particular reason for concern. Some prisoners still live in overcrowded conditions, and there is still no efficient civil supervision over the work of the police. In addition, complaints about the lack of access to international protection of irregular migrants are not adequately investigated.

Although the systemic problems remain, there were some positive steps in 2017, partly in line with recommendations provided by the Ombudswoman. Inter alia, this refers to the measures aimed at suppressing energy poverty, enhancing the protection of older persons against abuses in the contracts on maintenance until-death and domestic violence, and issuing permits by departments for construction and physical planning only after an environmental impact assessment has been made. Also, the long-awaited National Plan to Combat Discrimination 2017-2022 was adopted.

To make the advances more tangible, quicker, and more comprehensive, decisive and concrete steps need to be taken, prepared based on high-quality public policies, the consistent application of which is the only way of achieving results. The role of inter-sectoral cooperation and of training and investment is significant and needs to be intensified. Finally, it is important to work on eliminating all forms of intolerance and on developing a culture of dialogue, as factors considerably affecting the quality of life. The 231 recommendations prepared in this Report provide support in this direction, and we hope that they will be carefully considered, and implemented.

Notes