

May, 2023

# The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

Baseline report prepared by the Office of the Ombudswoman of  
Croatia

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## INTRODUCTION

### Purpose of the report

The Regulation 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy<sup>1</sup> (“Common Provisions Regulation”) has foreseen the role for bodies responsible for fundamental rights.

The purpose of this report is to outline the potential role of national human rights institutions in the implementation of the fundamental rights enabling conditions in Croatia based on the mapping and analysis of the structure for the implementation of EU Funds in Croatia. More precisely, the aim of the report is to explore the opportunities and challenges faced by the Ombudswoman as a NHRI as well as to identify possible points where NHRIs could play a role in supporting the implementation of the fundamental rights in EU funds.

For this purpose, it is worth mentioning that in the previous financial period, the Ombudswoman office as an equality body was involved in the work of Monitoring Committees monitoring the implementation of EU-funded programmes as their member- namely of the Monitoring Committee of the Operational Programme Efficient Human Resources 2014–2020 and Competitiveness and Cohesion 2014–2020. The Ombudswoman has an advisory role in the committees and does not have the right to vote. In reflecting on this role, this was the opportunity for the Ombudswoman to share information and to learn about the priorities of its stakeholders. At the same time, it has been challenging because the institution does not have sufficient knowledge of the implementation of EU-funded programmes and cannot devote a staff member solely to focus on this issue. Additionally, the committees’ discussions have been only formal, without substantive discussion. As part of meeting the conditionality criteria on anti-discrimination, the Ombudswoman’s institution also delivers, to all civil servants working on EU funds, short courses on anti-discrimination legislation. Even though this is a very short training sessions of an introductory nature, these courses provide an opportunity to raise civil servants’ awareness of their obligations under the Anti-discrimination Act and the main challenges some vulnerable groups are facing (e.g. Roma, national minorities, older people).

As regards the methodology and scope of this report, the purpose of the research was to map and identify some gaps and challenges in relation to ensuring fundamental rights compliance of EU funds implementation in Croatia in the period 2021 - 2027. Additionally, the report aims to explore the national human rights institution’s potential role in the reinforcement of the respect of fundamental rights conditions in Croatia.

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<sup>1</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231.

Firstly, the report presents an overview of the structures in place tasked with implementation of EU funds in Croatia, by describing how the EU funds operate in Croatia. In this context, it focuses on two programmes: Operational programme Competitiveness and Cohesion 2021 – 2027 (which now also includes and Integrated Territorial Programme) and Operational programme Efficient Human Resources 2021-2027 as these are two programmes in which the Ombudswoman’s office has been participating.

In the second place, the report looks at challenges and opportunities for the implementation of the Charter of fundamental rights in EU funds in Croatia.

Thirdly, the report focuses on the role of national bodies with human rights remit in ensuring fundamental rights compliance of EU funds within current structures.

### Research methodology

The report mostly relies on desk research, supplemented by short interviews/discussions with staff involved in implementation of EU funds. The desk research consisted of analysis of legal sources focusing on the establishment of the framework for the functioning of the institutions tasked for implementation of EU funds. The desk research included analysis of publicly available sources on the governmental websites (<https://strukturnifondovi.hr/>), regarding the functioning of EU funds and the activities of relevant bodies.

Additionally, the report was supplemented by the internal know-how of the Ombudswoman’s office and the participation in Monitoring Committees.

## EU FUNDS IMPLEMENTATION IN CROATIA: CHALLENGES AND OPPORTUNITIES FOR THE IMPLEMENTATION OF THE CHARTER OF FUNDAMENTAL RIGHTS

### Overview of the institutional structure of EU funds implementation in Croatia

The Law on the Establishment of Institutional Framework for the Implementation of European Union Funds in the Republic of Croatia was published in the Official Gazette No. 116/2021, and entered into force on November 4, 2021. The Law established an institutional framework for the implementation of European Union funds within the framework of shared management in the financial period 2021-2027, which refers to the Coordination Body and program bodies in the management and control systems of EU funds. It designates the institution that perform the functions of the Coordinating Body, which is the Ministry of Regional Development and EU funds as well as its tasks and responsibilities. The Law also determines the implementation of activities to strengthen the capacity of the institutional framework for the use of EU funds and users, partners and collaborators on projects financed from EU funds.

While the Law prescribes the basic functions of the Coordination Body, its functions, tasks and responsibilities are further elaborated by a Regulation<sup>2</sup> of the Government of the Republic of

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<sup>2</sup> Uredba o funkcijama, zadaćama i odgovornosti Koordinacijskog tijela u institucionalnom okviru za korištenje fondova Europske unije u Republici Hrvatskoj u financijskom razdoblju od 2021. do 2027. godine available at [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_08\\_96\\_1424.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_08_96_1424.html)

Croatia in accordance with the Law and relevant legal regulations of the European Union. Public consultation on the Regulation was conducted via e-counselling platform. However, it lasted only 14 days, which is below legal obligation according to which consultation should not last less than 30 days.

The responsibility for the implementation of the funds is split between multiple institutions. A managing authority is designated for each of the programmes. These authorities are charged with preparation and management of the programmes. The Ministry of Regional Development and EU funds is designated as the Managing Authority for the Operational programme Competitiveness and Cohesion 2021 – 2027 (and Integrated Territorial Programme). The Ministry of Labour, Pension System, Family and Social Policy is designated for the Operational programme Efficient Human Resources 2021-2027.

Managing authorities of these programs set detailed rules for the operation of the programme and coordinate its implementation including, in particular:

- adopting rules that determine the conditions for the preparation and implementation of operations and the acceptability of costs, appropriate audit trail, selection and contracting of operations, forecasting and monitoring, checks of operations, payments, certifications, refunds, management of irregularities and risks, conducting audits, conducting information activities and visibility, the use of technical assistance, the evaluation of the program as well as other procedures related to the management of the Funds
- managing risks at the Program level
- participating in drafting, changes or amendments of the Partnership Agreement and the Program
- analysing the weaknesses of the System and coordinating the implementation of corrective measures and implementation of corrective measures
- submitting to the Coordinating Body all relevant information and documents related to the conducted audits as well as data necessary for the preparation of the annual review meeting and the meetings of the monitoring committee, and upon request all other relevant information and documents related to management, implementation, monitoring, reporting and program evaluation
- participating in the establishment and work of the monitoring committee
- in cooperation with Level 1 Intermediary Bodies, coordinating the procedures for creating and amending and/or supplementing the criteria for selecting operations and submits them for approval to the monitoring committee
- **ensuring compliance with horizontal principles from Article 9 of Regulation (EU) 2021/1060 in the implementation of operations**

- **assessing the fulfilment of the conditions that enable the implementation of the Program**, ensures that they remain fulfilled and are respected throughout the program period, and reports on the above to the Coordination Body

Managing authorities are responsible for the implementation of the entire programme, including verification of all projects realised under it. But part of the tasks is performed by other institutions, the so-called intermediate bodies, of the level 1 and level 2. These are usually bodies specialised in the fields financed by a given programme. Some of the tasks of intermediate bodies of the level 1 include:

- cooperation with the Coordination Body, the Management Authority, other intermediary bodies and relevant stakeholders during the development, implementation, monitoring and evaluation of the Partnership Agreement and the Program
- in cooperation with the relevant Intermediary Body of level 2, they prepare and publish the entire documentation of the call for grants
- managing of risks at the level of a specific objective
- participation in the work of the Monitoring Committee
- participation in the programming process and prepare parts of the Program and Partnership Agreement
- recording and electronically storing data on each operation, in accordance with the positive regulations of the EU and the Republic of Croatia
- in cooperation with the Management Body, developing criteria for selecting operations.

The level 2 intermediary bodies:

- cooperate with the Coordination Body, the Management Authority, other intermediary bodies and relevant stakeholders during the development, implementation, monitoring and evaluation of the Partnership Agreement and the Program
- managing risks at the level of operations
- participating in the work of the Monitoring Committee
- cooperation with the Level 1 Intermediary Body in the preparation of the documentation for the call for grants
- participation in the selection of operations
- upon completion of the operation selection procedure, they prepare drafts of the grant award contract
- recording and electronically storing data on each operation
- carrying out activities to prevent, detect and correct irregularities from Article 74, paragraph 1, point (d) of Regulation (EU) 2021/1060 and apply corrective measures

For the implementation of the Operational Program Competitiveness and Cohesion 2021-2027<sup>3</sup>, the Regulation determines the operational structure consisting of the Management Authority, Level 1 Intermediate Bodies and Level 2 Intermediate Bodies.

- Management authority – Ministry for Regional Development and EU funds
- Level 1 Intermediate Bodies
  - Ministry of Science and Education
  - Ministry of Economy and Sustainable Development
  - Ministry of Regional Development and EU funds
  - Ministry of Physical Planning, Construction and State Assets
  - Ministry of the Sea, Transport and Infrastructure
- Level 2 Intermediate Bodies
  - Central Finance and Contracting Agency
  - The Croatian Agency for SMEs, Innovation and Investments (HAMAG-BICRO)

For the implementation of the Operational Program Efficient Human Resources 2021-2027<sup>4</sup>, the Regulation determines the operational structure consisting of the Management Authority, Level 1 Intermediate Bodies and Level 2 Intermediate Bodies.

- Management authority – Ministry of Labour, Pension System, Family and Social Policy
- Level 1 Intermediate Bodies
  - Ministry of Labour, Pension System, Family and Social Policy
  - Ministry of Science and Education
  - Governmental Office for Cooperation with NGOs
  - Ministry of Culture and Media
  - Ministry of Tourism and Sport
  - Ministry of Health

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<sup>3</sup> Uredba o tijelima u sustavu upravljanja i kontrole za provedbu programa iz područja konkurentnosti i kohezije za financijsko razdoblje 2021 – 2027 available at [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_08\\_96\\_1426.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_08_96_1426.html)

<sup>4</sup> Uredba o tijelima u sustavu upravljanja i kontrole korištenja Europskog socijalnog fonda plus u vezi s ciljem »Ulaganje za radna mjesta i rast«, u okviru programa Učinkoviti ljudski potencijali 2021. – 2027. available at [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_08\\_96\\_1430.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_08_96_1430.html)

- Level 2 Intermediate Bodies
  - Croatian Employment Service
  - Agency for Vocational Education and Training
  - National Foundation for Civil Society Development

Planning phase and key documents, with a specific focus on the Charter of Fundamental Rights

### **Partnership Agreement**

On August 24, 2022, the European Commission adopted the Partnership Agreement with the Republic of Croatia for the financial period 2021-2027, establishing an investment strategy in the amount of 9 billion euros from EU funds for economic and social development until 2027. According to the Partnership Agreement actions for the protection of equality, inclusion and non-discrimination have been developed taking into account the Guidelines on ensuring respect for the European Charter of the Union on fundamental rights in the implementation of European structural and investment funds ("ESI funds") and the checklist for fundamental rights, along with the proposals of the Government Office for Human Rights and the Rights of National Minorities and the Ombudswoman for Gender Equality.

Furthermore, the Agreement stipulates that in the implementation of the funds under the Partnership Agreement, the horizontal principles of equality between women and men and the principle of non-discrimination of all group in society will be ensured. Likewise, in implementing the Agreement, the Republic of Croatia will ensure respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of Persons with Disabilities. Emphasis will also be placed on the fight against inequality, the application of the principle of prevention of segregation, especially of those in the disadvantaged position.

The Ombudswoman and her staff did not take part in the preparation of the Partnership agreement nor were asked for the opinion once it was drafted. However, the Partnership Agreement states that the opinion on human rights implications was asked from two bodies with human rights remit - Governmental Office for Human Rights and Rights of National Minorities (not independent body, advisory office to the Government) and Ombudswoman for Gender Equality (equality body, 'specialised Ombuds institution').

### **Development of programmes**

In order to ensure the highest level of coordination and monitoring of program preparation and their implementation, the National Coordination Committee for European Structural and Investment funds and EU instruments in the Republic of Croatia and thematic subcommittees was established and its members are ministers, state officials, prefects and civil servants at the highest level. National Coordination Committee will continue to ensure the overall coordination and monitoring of the implementation of the funds.



Moreover, when it comes to specific programs, national priorities, operations, projects and activities were defined in accordance with national strategic framework - National Development Strategy 2030, and should have been defined in more detail through the work of Working Groups for the development of program documents<sup>5</sup>.

Working Groups were established and Working Groups included, apart from line ministries, representatives of regional and local bodies, including cities as well as other public bodies, economic and social partners, academia and representatives of civil society, such as those from the field of environmental protection, promotion of social inclusion, gender equality and non-discrimination, as well as bodies representing local action groups.

Representatives from civil society organizations were included in working groups for the preparation of program documents for the financial period 2021-2027. They were elected through a public call<sup>6</sup> for nominations of candidates for representatives of civil society organizations for members and replacement members of working groups. The Council for the Development of Civil Society, on the proposal of interested civil society organizations, elected representatives of civil society organizations, up to three members with replacement members per individual working group ( in total they were elected for 5 WG).

However, when it comes to participation of the Ombudswoman in her capacity as NHRI and NEB, the institution was not asked to take part in the WG, and only on the request/proposal of the institution, the Ombudswoman was included as an external member of the Working Group Solidarity that was tasked with the development of the Operation Program on Efficient Human Resources (ESF+).

Additionally, just prior to the adoption of the Operational Programme on Efficient Human Resources the Ombudswoman was asked to provide her view on the compliance of the Program with the Charter of Fundamental Rights. The same was asked from the Governmental Office for Human Rights and Rights of National Minorities, Ombudswoman for Gender Equality and Ombudswoman for Persons with Disabilities.

In the Opinion provided by the Ombudswoman, the institution highlighted that in order to be able to do that, substantiated consultations should have been conducted and all relevant information on planned operations and activities should have been available to her. The Ombudswoman highlighted that the document should include not only physical accessibility, but also other activities aimed at preventing discrimination and to specify more clearly which interventions will target specific groups covered by anti-discrimination legislation. The Ombudswoman also noticed that basis for intervention should be available data, such as data collected by FRA and recommendations Croatia received within international human rights system (UPR, treaty bodies recommendations, ECtHR, ECRI and similar) as well as data presented by national human rights institutions, such as Ombuds institutions, including specialised Ombuds. Finally, the Ombudswoman highlighted the importance of ensuring complaint mechanism to those applying for EU funds. Additionally, the Ombudswoman

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<sup>5</sup> Decision on the establishment of Working Groups available at <https://strukturnifondovi.hr/wp-content/uploads/2021/09/Odluka-o-uspostavi-radnih-skupina-za-izradu-programskih-dokumenata.pdf> and its amendments available at <https://strukturnifondovi.hr/wp-content/uploads/2021/09/Odluka-o-izmjeni-i-dopunini-odluke-o-uspostavi-radnih-skupina-za-izradu-programskih-dokumenata.pdf>

<sup>6</sup> <https://udruga.gov.hr/vijesti/poziv-na-predlagane-kandidata-za-predstavnike-organizacija-civilnoga-drustva-za-members-and-replacements-of-members-of-working-groups-for-creating-program-documents-for-the-financial-period-2021-2027/5238>

pointed to the need of ensuring the training on the Charter of Fundamental Rights for all those working with EU funds, as the visibility of the Charter at the national level is rather low. Lastly, she pointed out that within monitoring committees a space should be ensured for the institution as an NHRI to present key fundamental rights challenges in Croatia once a year and that 'specialized Ombuds institutions' (Ombud for gender equality, Ombud for persons with Disabilities and Ombuds for Children) should be included in the work of monitoring committees.

### Self- assessment on the Charter of Fundamental Rights

The effective application and implementation of the Charter of Fundamental Rights of the European Union and Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCPRD) in accordance with Council Decision 2010/48/EC are horizontal enabling conditions for the implementation of EU funds in both Operational Programmes in Croatia for the period 2021-2027.

A detailed self-assessment of ENC was done for each of the programmes, and a shorter version is publically available as part of adopted programmes.<sup>7</sup>

Compliance with the principle of effective application and implementation of the Charter of Fundamental Rights is assessed via ensuring the following criteria in both of the programs:

1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter.
2. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter and complaints regarding the Charter submitted in accordance with the arrangements made pursuant to Article 69(7).

Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCPRD) in accordance with Council Decision 2010/48/EC and its compliance is assessed via ensuring the following criteria:

A national framework to ensure implementation of the UNCPRD is in place that includes:

1. Objectives with measurable goals, data collection and monitoring mechanisms.
2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes.
3. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the UNCPRD and complaints regarding the UNCPRD submitted in accordance with the arrangements made pursuant to Article 69(7).

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<sup>7</sup> <https://strukturnifondovi.hr/wp-content/uploads/2022/11/PKK-2021-2027.pdf>;  
[https://strukturnifondovi.hr/wp-content/uploads/2022/11/Program-Ucinkoviti-ljudski-potencijali-2021.-2027 .pdf](https://strukturnifondovi.hr/wp-content/uploads/2022/11/Program-Ucinkoviti-ljudski-potencijali-2021.-2027.pdf)

## ***Operational Program Competitiveness and Cohesion 2021-2027(OP CC)***

### **I. Charter of Fundamental Rights Compliance**

1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter

According to the OP, during the preparation of the OP CC, a particular care was taken to ensure compliance with the Charter by involving relevant stakeholders (the Office for Human Rights and the Rights of National Minorities and the Office for Gender Equality as well as representatives of civil society in the field of human rights and the rights of persons with disabilities) in the process of drafting of the programme and by obtaining opinions from Office for Human Rights and Rights of National Minorities and the Ombudswoman for Gender Equality. According to the OP, compliance with the Charter will be ensured during all phases of the programme cycle (implementation, monitoring, evaluation, reporting and auditing). In order to ensure that the bodies of the management and control system are informed and familiar with the provisions of the Charter on Fundamental Rights and that they can properly apply and check the provisions of the Charter in their daily work, the Managing Authority will organize trainings.

2. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter and complaints regarding the Charter submitted in accordance with the arrangements made pursuant to Article 69(7).

According to the OP, in order to provide mechanisms for reporting to the Monitoring Committee, the existing Network of Non-Discrimination Coordinators and Equality Bodies<sup>8</sup> will be used (the Network was established in the previous financial period) for cases related to non-compliance of the Charter in relation to operations receiving support from the Funds as well as to complaints. Furthermore, a representative of the Managing Authority will be appointed as a responsible person for reporting to the Monitoring Committee. The procedures related to the reporting of the Monitoring committee will be defined in more details in a document that will regulate the way the Monitoring Committee works. This representative will report to the Monitoring Committee at least once a year (as a permanent item on the agenda). In addition, the members of the Monitoring Committee will be representatives of public bodies that are responsible for the application of the horizontal principles established in Articles 4 to 8 of Regulation (EU) no. 1303/2013. This includes bodies responsible for promoting equality, appointed in accordance with Directive 2000/43/EC, Directive 2004/113/EC and Directive 2006/54/EC.

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<sup>8</sup> the existing Network of coordinators for non-discrimination was established within the framework of fulfilling ex-ante conditions at the level of bodies of the management and control system in the previous cycle. The Ombudswoman is a member of the network and has provided support to their work in the previous cycle.

## **II. Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC <sup>(1)</sup>**

A national framework to ensure implementation of the UNCRPD is in place that includes:

1. Objectives with measurable goals, data collection and monitoring mechanisms.

According to the OP, the National Plan for the Equalization of Opportunities for Persons with Disabilities for the period from 2021 to 2027 was adopted in December 2021, together with the corresponding Action Plan for 2021 to 2024 as a framework for the implementation of the Convention on the Rights of Persons with Disabilities. Relevant stakeholders were involved in the drafting process (representatives of persons with disabilities, state bodies, local governments, Office for Human Rights and Rights of National Minorities, Office for Gender Equality, social partners, etc.). Ministry of Labour, Pension System, Family and Social Policy as the coordinator of the drafting, implementation and monitoring of the implementation of the National Plan developed instruments for monitoring the implementation, and the framework for monitoring, reporting and evaluation is described in Chapter 9 of the National Plan. Consolidated reports on the implementation of the National Plan are submitted to the Government of the RoC, and after adoption, the reports are published on the Ministry's website.

2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes.

In the preparation of the OP, mechanisms are ensured that take into account the accessibility policy and respect the legislation and standards related to accessibility. During all phases of the programme's life cycle, the compliance with the Convention will be taken into account: in implementation, monitoring, evaluation, reporting and auditing. The checklist will be used to assess the compliance with the Convention. The checklist will be created in cooperation with the Ombudswomen institutions and the Ministry of Labour, Pension System, Family and Social Policy. The checklist will be incorporated into the procedures adopted by the management and control system.

In order to ensure that the bodies of the management and control system are informed and familiar with the provisions of the UNCRPD and that they can properly apply and verify the provisions of the Convention in their daily work, the Managing authority will organize trainings.

3. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the UNCRPD and complaints regarding the UNCRPD submitted in accordance with the arrangements made pursuant to Article 69(7)

In order to ensure the mechanisms for reporting to the Monitoring Committee, the existing Network of coordinators for non-discrimination, which were established within the framework of fulfilling ex-ante conditions at the level of bodies of the management and control system in the previous cycle will be used. The role of the Network of Coordinators will

be clearly defined in accordance with the obligations stemming from the new period and will be formalized by the internal regulations, as well as the procedure in case of complaints about the violation of rights from the Convention.

Cases of non-compliance of operations with the UNCRPD and complaints will be channelled through the non-discrimination coordinator and reported to the Monitoring Committee. A Managing Authority representative will be appointed to report to Monitoring Committee. The representative of the Managing Authority will report on this topic once a year at the meeting of the Monitoring Committee (as a permanent item on the agenda). The procedures related to the reporting of Monitoring Committee will be defined in more detail in the document which will regulate the way of work of the Monitoring Committee. All objections and cases of non-compliance will be discussed at the meetings of Monitoring Committee, and the relevant recommendations will be sent to bodies of the management and control system

### ***Operational Programme Efficient Human Resources 2021-2027.***

#### **I. Charter of Fundamental Rights Compliance**

1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter

According to the OP, during the preparation of the OP, a particular attention was paid to ensuring the compliance with the Charter by including all relevant stakeholders, representatives of civil society in the field of human rights, including the rights of persons with disabilities in the process of drafting the program and obtaining opinions from the Ombudswoman and the Ombudsman for Persons with Disabilities. Compliance with the Charter will be ensured during all phases of the programme cycle (implementation, monitoring, evaluation, reporting and audit).

Additionally, an integral part of the Guidelines for ESF+ will be a checklist based on which calls for projects documentation will be approved. This checklist will help ensure that the calls are in line with the Charter. In order for potential applicants to be familiar with the requirements from the Charter, instructions for applicants will be prepared, which will facilitate the preparation of the project proposal in the part that refers to the requirements from the Charter. The guidelines will also describe in detail the procedure of the Managing Authority in the event of a complaint about the violation of rights from the Charter. In order to ensure that bodies responsible for management and control are informed and familiar with the provisions of the Charter, the Managing Authority will organize trainings.

2. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter and complaints regarding the Charter submitted in accordance with the arrangements made pursuant to Article 69(7).

According to the OP, the Regulations on the work of the Monitoring Committee will contain a mechanism for reporting cases of non-compliance and complaints.

Cases of non-compliance and non-compliance of operations with the Charter will be reported to the Monitoring Committee once a year. This information will be submitted to the Management Bodies by Ombuds institutions- the Ombudswoman and the Ombudswoman for Persons with Disabilities, and by the Complaints Commission operating within the Managing Authority. The aforementioned bodies will be members of the Monitoring Committee. The coordinator for non-discrimination, who is employed by the Managing Authority, will monitor and report to the Monitoring Committees on cases of non-compliance and objections related to all rights and principles from the Charter. The report will contain the number and type of received cases of non-compliance and objections, their status and relevant recommendations to bodies in order to avoid repeating the same or similar cases of non-compliance and objections in the future.

All the mentioned activities should be prescribed in the Regulation on the work of the Monitoring Committee.

## ***II. Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC [\(1\)](#)***

A national framework to ensure implementation of the UNCRPD is in place that includes:

1. Objectives with measurable goals, data collection and monitoring mechanisms.

According to the OP, the National Plan for the Equalization of Opportunities for Persons with Disabilities for the period from 2021 to 2027 was adopted in December 2021, together with the corresponding Action Plan for 2021 to 2024 as a framework for the implementation of the Convention on the Rights of Persons with Disabilities. Relevant stakeholders were involved in the drafting process (representatives of persons with disabilities, state bodies, local governments, Office for Human Rights and Rights of National Minorities, Office for Gender Equality, social partners, etc.). Ministry of Labour, Pension System, Family and Social Policy as the coordinator of the drafting, implementation and monitoring of the implementation of the National Plan, developed instruments for monitoring the implementation, and the framework for monitoring, reporting and evaluation is described in Chapter 9 of the National Plan. Consolidated reports on the implementation of the National Plan are submitted to the Government of the RoC, and after adoption, the reports are published on the Ministry's website.

2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes.

In the preparation of the OP, mechanisms are ensured that take into account the accessibility policy and respect the legislation and standards related to accessibility. During all phases of the program's life cycle, the compliance with the Convention will be taken into account: in implementation, monitoring, evaluation, reporting and auditing. The checklist will be used to assess the compliance with the Convention. The checklist will be created in cooperation with the Ombudswomen institutions and the Ministry of Labour, Pension System, Family and Social

Policy. The checklist will be incorporated into the procedures adopted by the management and control system.

In order to ensure that the bodies of the management and control system are informed and familiar with the provisions of the UNCRPD and that they can properly apply and verify the provisions of the Convention in their daily work, the management authority will organize trainings.

3. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the UNCRPD and complaints regarding the UNCRPD submitted in accordance with the arrangements made pursuant to Article 69(7).

Cases of non-compliance and non-compliance of operations with the UNCRPD will be reported to the Monitoring Committee once a year. This information will be submitted to the Management Authority by the equality bodies - the Ombudswoman and the Ombudswoman for Persons with Disabilities, and the Complaints Commission operating within the Managing Authority. The aforementioned bodies will be members of the Monitoring Committee. The coordinator for non-discrimination, who is employed by the Managing Authority, will monitor and report to the Monitoring Committees on cases of non-compliance and objections related to all rights and principles from the Charter. The report will contain the number and type of received cases of non-compliance and objections, their status and relevant recommendations to bodies in order to avoid repeating the same or similar cases of non-compliance and objections in the future.

All the mentioned activities will be prescribed in the Regulation on the work of the Monitoring Committee. When it comes to trainings mentioned within self-assessment, it is also worth noting that in order to ensure sustainability of trainings, the *National Program for Human Rights Protection and Promotion and Suppression of Discrimination 2022 – 2027* and accompany *Action Plan for Human Rights 2023* include a measure, which aims to raise administrative capacities for implementation of the Charter in the area of EU funds. This measure is expected to be included in all future Action plans as well.

Also, there is no self-standing document on the compliance with the Charter and UNCRPD. Currently, there is an ongoing procedure for adoption of Common National Rules and the Checklist for assessing compliance of calls with the Charter of Fundamental Rights of the European Union. The Checklist will be developed for each of these two OPs.<sup>9</sup>

Furthermore, there is no a specific document laying down the cooperation with NHRI/EBs/CSOs in the context of the horizontal principles, including the Charter, apart from the Regulation on the work of the Monitoring Committee which includes all governmental bodies with human rights remit and independent institutions for human rights and equality .

When it comes to independent institutions for human rights in Croatia:

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<sup>9</sup> During the drafting of the Checklist for OP CC the Ombudswoman was consulted as well as the Ombudswoman for Persons with Disabilities. The Checklist for Op on Efficient Human Resources is still in the drafting phase.

- the Ombudswoman, in line with the Constitution is a commissioner of the Croatian Parliament responsible for the promotion and protection of human rights and freedoms enshrined in the Constitution, laws and international legal instruments on human rights and freedoms ratified by the Republic of Croatia. The Ombudswoman is a multi-mandated institution with the following mandates: Ombud, A status NHRI, NEB, NPM and whistleblowers' protection.
- Ombudswoman for Gender Equality
- Ombudswoman for Children
- Ombudswoman for Persons with Disabilities

Finally, when looking at these two OPs the conclusion can be drawn that different bodies with human rights remit have been consulted for Opinion in drafting phases. Additionally, in the context of compliance with the Charter and UNCPRD two OPs take different approach – the OP CC builds on the existing network of non - discrimination coordinators, while OPP HER directly notes that it will consult with the Ombudswoman and Ombudswoman for Persons with Disabilities.

### Monitoring committees

Monitoring committees for these two OPs were established:

1. Monitoring Committee for OP Competitiveness and Cohesion 2021-2027 and Integrated territorial Program 2021 – 2027

There is no sub-committee related to the Charter of Fundamental Rights or the UNCPRD. Article 13 of the Regulations on the Work of the Monitoring Committee states that the Managing Authority (a person appointed to report to the Monitoring Committee) reports on the non-compliance with the charter once a year. The report will contain the number and type of received cases of non-compliance and objections, their status and relevant recommendations to bodies in order to avoid repeating the same or similar cases of non-compliance and objections in the future. 15 days from the adoption of the Report the Committee sends the recommendations to the Managing Authority in order to avoid repeating the same or similar cases of non-compliance and objections in the future. Article 14 refers to the UNCPRD and its content is same as in the Charter case.

The representatives of the Ombudswoman, Ombudswoman for Persons with Disabilities and Ombudswoman for Gender Equality are members of the Monitoring Committee but they don't have a right to vote. Governmental Office for Human Rights and Rights of National Minorities as well as Office for Gender Equality and Commission for Relationship with Religious Communities are also members of the Committee and they have a right to vote as well as representatives of CSOs.



## 2. Monitoring Committee for OP Efficient Human Resources 2021-2027

There is no sub-committee related to the Charter of Fundamental Rights or the UNCRPD. Article 3 of the Regulations on the Work of the Monitoring Committee states that the Managing Authority (a person appointed to report to the Monitoring Committee) reports on the non-compliance with the charter and UNCRPD once a year. The report will contain the number and type of received cases of non-compliance and objections, their status and relevant recommendations to bodies in order to avoid repeating the same or similar cases of non-compliance and objections in the future.

Representatives of the Ombudswoman, Ombudswoman for Children, Ombudswoman for Persons with Disabilities and Ombudswoman for Gender Equality as well as representatives of the Governmental Office for Human Rights and Rights of National Minorities and Office for Gender Equality are members of the Monitoring Committee. They all have a right to vote. This also refers to representatives of CSOs.

### Relevant bodies for implementation of enabling conditions

In the context of the OP CC Ministry for Regional Development and EU funds is entrusted with ensuring the compliance with the Charter/CRPD conditionality. Within the Ministry, there is a Directorate for the Implementation of the Operational Programmes and Financial Instruments, which includes the Department for Cooperation with International Financial Institutions and the Application of Horizontal Principles. The Department for Cooperation with International Financial Institutions and the Application of Horizontal Principles is entrusted with developing procedures, methodologies, technical guidance and monitoring of compliance with the horizontal principles, including the Charter/CRPD conditionality.

Additionally, in the context of OP EHR Ministry of Labour, Pension System, Family and Social Policy is entrusted with ensuring compliance with the Charter/CRPD conditionality. Within the Ministry, the Directorate for management of EU operational programmes is established, which includes the Sector for programming, financial management and implementation of financial instruments, consisting of the Service for programming and subsequently the Department for Programming Documents.

In order to ensure compliance with the horizontal principles in November 2020 the Minister of Regional Development and EU funds adopted a **Decision on the Establishment of Interdepartmental Working Group for Coordination and Monitoring Application of Horizontal Principles that are enabling conditions for usage of EU funds 2021 to 2027**. This Working Group is coordinated by the Ministry of Regional Development and EU funds and members are at the level of state secretaries of all relevant ministries and governmental offices. The tasks of the Working group include:

- regularly reporting the coordination body and submitting up to date data on the process of implementation of conditions and criteria from their respective area of works

- regularly reporting and including coordinating body in communication with relevant bodies of EC in relation to fulfilment of enabling conditions
- establishing and coordinating working teams for fulfilment of conditions in their area of work
- taking part in the work interdepartmental working sub groups for horizontal principles where more bodies are responsible for their implementation
- continuously reporting coordinating body on implementation and challenges encountered in application of enabling conditions throughout the whole period

In addition, when it comes to bodies that are part of the structure for usage of EU funds, each body appointed an **anti-discrimination coordinator**. These coordinators are foreseen to be a mechanism for monitoring of implementation of horizontal conditions 3. and 4., as well as a platform for exchange of information, experience and education/training on the Charter. Ministry of Labour, Pension System, Family and Social Policy has taken up coordination role for the Network. Coordinators are appointed in Managing Authorities, Level 1 and Level 2 Intermediate Bodies, audit bodies, Governmental Office for Human Rights and Rights of National Minorities and Office for Gender Equality as well as in Ombudswoman institution, Ombudswoman for Children, Ombudswoman for Gender Equality and Ombudswoman for Persons with Disability institutions. So far, there have been no meetings of this network in this financial period, but it did meet, though not regularly, in the previous financial period.

At the level of the OPs there is no specific indicator in relation to the Charter, but there are indicators related to gender or specific target groups. When it comes to calls of proposals, the Managing Authority of each OP approves them in relation to the Charter/CRPD by using the Checklist.

At the level of projects' compliance with the Charter/CRPD is ensured through evaluation of projects and is done by evaluators. In order to be qualified to do so, the evaluators will be offered training on the Charter/CRPD as well. Also, to support both evaluators and beneficiaries, manuals on how to integrate the Charter/CRPD into project proposals and how this would be evaluated would be beneficial.

When it comes to evaluation in relation to the Charter, the project are assessed, ie clustered in two possible way: projects with positive impact (those that go above legal requirement/minimum) and those having no impact (projects fulfilling legal requirements).

In the contexts of calls for proposals, as already mentioned, the assessment of compliance with the Charter/CRPD is done in comparison with the Checklist. Additionally, selection criteria for operations are being currently developed and the Monitoring Committees should adopt them.

In conclusion, at least in theory NHRIs/NEBs/ are usually asked for their Opinion/HR assessment in the stages of preparation of documents – as was the case during the drafting of the Checklist. Furthermore, as members of Monitoring Committees, they do receive all documentation prior to the meeting and their adoption and can provide their input. The same

is true for CSOs. However, it should be noted that deadlines for providing input are rather short (usually between 7 to 14 days), which provides an obstacle to NHRIs/NEBs. To add, as this is not part of their daily work, it takes time to fully go through documents and be aware of all implications. Finally, it should be stated that NHRIs /NEBs were not provided additional staff who would be able to dedicate their time to this issue solely.

Also, it is important to underline that the major risk of possible non-application or misapplication of the Charter of Fundamental Rights by institutions involved in implementation of EU funds relates to the lack of knowledge on the Charter, so there is a need to strengthen their capacities in this respect.

Additionally, what would be very much welcomed by bodies involved in EU funds are clear Guidelines by the EU on the application of the Charter of Fundamental Rights as an enabling condition as well as examples of how this enabling condition is being implemented across other member states.

### Complaints and evaluation

In the context of non-compliance with HECs, the Sector for horizontal issues and handling of complaints is set up within the Ministry of Regional Development and EU funds. The Complaints can be submitted via email [nepravilnosti.eu@mrrfeu.hr](mailto:nepravilnosti.eu@mrrfeu.hr) or sent to the following address: Ministarstvo regionalnoga razvoja i fondova Europske unije, Miramarska cesta 22, 10 000 Zagreb or directly via telephone: 01/ 6400 – 600 or fax: 01/ 4569 – 150. However, from the name (irregularities) it is not quite clear for beneficiaries if this is an avenue for complaints in relation to the Charter of Fundamental Rights /CRPD or does it mainly relates to financial irregularities. Hence, it is extremely important to clearly state that the current complaint system can be used in relations to violations of the EU Charter on Fundamental Rights and Convention on the Rights of Persons with Disabilities.

Additionally, the complaint can be submitted to all Ombuds institution, depending on the context of the complaint. The complaints can be submitted via email, post or directly by coming to the office. However, it should be noted that they are not often recognized as a possible avenue to complain by different beneficiaries of EU funds and in reality have dealt with very small number of complaints related to projects funded within structural funds.

## NATIONAL BODIES WITH A HUMAN RIGHTS REMIT IN ENSURING FUNDAMENTAL RIGHTS COMPLIANCE OF EU FUNDS

### Independent institutions

In Croatia, the national human rights institution is the Ombudswoman of the Republic of Croatia (A status NHRI).<sup>10</sup> In addition, there are three 'specialized Ombuds institutions': Ombudsperson for Persons with Disabilities,<sup>11</sup> Ombudsperson for Gender Equality,<sup>12</sup> Ombudsperson for Children.<sup>13</sup> All of these institutions submit their Annual Report to the Parliament, and some of these reports include information on some projects/segments on EU funds.

The Ombudswoman of the Republic of Croatia is a Commissioner of the Croatian Parliament responsible for the promotion and protection of human rights and freedoms, and performs the mandate of the Parliamentary Ombudsman, NHRI, central National Equality Body, as well the NPM (National Preventive Mechanism for the protection of the persons deprived of their liberty), and is also entrusted with external reporting of irregularities within the Whistle-blowers' Protection Act.<sup>14</sup> In previous annual reports of the Ombudsperson, EU funds are covered in the chapter concerning unequal regional development with special reference to rural areas and use of ESI funds; chapters concerning discrimination based on race, skin colour, ethnicity and national origin, chapter concerning employment and chapter on human rights defenders.

In the previous financial period, the Ombudswoman received complaints in relation to the project Wish - Employment Program for Women (*Zaželi – program zapošljavanja žena*)<sup>15</sup> project within the European Social Fund. The complaints related to the right to work of persons providing home care services and the set criteria on the basis of which people were selected. Additionally, the Ombudswoman monitored how is this project used to fill the lack in the social services in some areas and affects it had on the users of this service.

The Ombudswoman was a member of the evaluation group for OP Effective Human Resources 2014-2020, conducted trainings in the State School of Public Administration on combating discrimination for employees working on EU funds,<sup>16</sup> as part of fulfilling the ex-ante conditionality and provided support to the Network of anti-discrimination coordinators established within previous financial period. In this programming period, the institution continued cooperation with the Ministry of Regional Development and EU funds and

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<sup>10</sup> Croatia. Ombudsperson of the Republic of Croatia ([Pučki pravobranitelji](#)).

<sup>11</sup> Croatia. Ombudsperson for Persons with Disabilities ([Pravobranitelji za osobe s invaliditetom](#)).

<sup>12</sup> Croatia. Ombudsperson for Gender Equality ([Pravobranitelji za ravnopravnost spolova](#)).

<sup>13</sup> Croatia. Ombudsperson for Children ([Pravobranitelji za djecu](#)).

<sup>14</sup> Croatia. Whistle-blowers' Protection Act ([Zakon o zaštiti prijavitelja nepravilnosti](#)), Official Gazette (*Narodne novine*) No. 46/22.

<sup>15</sup> Croatia. Ministry of Labour, Pension System, Family and Social Policy (*Ministarstvo rada, mirovinskog sustava, obitelji i socijalne politike*). Wish - Employment Program for Women ([Zaželi – program zapošljavanja žena](#)).

<sup>16</sup> Croatia. Ombudsperson of the Republic of Croatia (*Pučki pravobranitelji*). Training of non-discrimination coordinators ([Edukacija koordinatora za nediskriminaciju](#)), 2017.

implemented an intro training on the Charter of Fundamental Rights and on the rights of older persons.

The Ombudsperson for Persons with Disabilities is a specialised Ombud institution whose purpose is to protect, monitor and promote the rights and interests of persons with disabilities. In previous programming periods, they also conducted training on rights of persons with disabilities for employees working on EU funds, as part of fulfilling the ex-ante conditionality. They have monitored funding of activities related to personal assistance to the persons with disabilities and challenges faced by service providers as their work is project funded, not allowing often for continuity.

The Ombudsperson for Gender Equality is a specialised Ombuds institution in charge of combating discrimination based on sex, gender, gender identity, sexual orientation and family status. The institution carried out trainings on gender equality within the framework of education for non-discrimination coordinators.

The Ombudsperson for Children is a specialised Ombud institution whose purpose is to protect, monitor and promote the rights and interests of children.

In previous financial period, the Ombudswoman and specialized Ombuds were members of Monitoring Committees.

#### Other national institutions with a human rights remit

In the context of bodies with the human rights remit it is important to mention two governmental offices - Government Office for Human Right and the Rights of National Minorities and Government Office for Gender Equality.

Government Office for Human Right and the Rights of National Minorities is a professional service to the Croatian Government that performs professional, analytical, advisory and administrative tasks in connection with the implementation of the established policy for protection and promotion of human rights and the rights of national minorities in Croatia and monitors their effectiveness. They are involved in programming, implementation and monitoring of OPs and are sometimes consulted by managing authorities, as was the case with the Operational Program "Competitiveness and Cohesion". They also participate in monitoring committees of both of these OPs. They participated in the training of bodies that are in charge of the management and control system on non-discrimination. Finally, they have also been beneficiaries of the ESF and AMIF.

Government Office for Gender Equality is a professional service to the Croatian Government that performs professional, analytical, advisory and administrative tasks in connection with the implementation of the established policy for gender equality in Croatia and monitors their effectiveness. They are involved in programming, implementation and monitoring of OPs. They also participate in monitoring committees of both of these OPs. They participated in the training of bodies that are in charge of the management and control system on non-discrimination.

## Conclusion on bodies with human rights remit

The bodies with human rights remit are different in their scope, mandate, independence, size and capacity in terms of human resources and their regional coverage, which impacts on their involvement in assessing EU Charter and the Convention on the Rights of Persons with Disabilities compliance of EU funds on national level. However, it should be noted that based on their reports and membership in different advisory, operational, monitoring, evaluation and training activities in the different phases of the EU funding cycle from previous and new funding cycle, it can be concluded that they are present and involved in EU funds and fundamental rights, each in the scope of their (specific) mandate.

Furthermore, there is a difference between the NHRIs (independent statutory institutions conforming with the UN Paris Principles), Equality Bodies (public institutions required under EU legislation) and governmental bodies with human rights remit. In this context it is important to highlight that the European Network of National Human Rights Institutions (ENNHRI) issued a statement regarding participation in the programming period, highlighting that NHRIs should participate only in an advisory capacity. From the experience of the Ombudswoman institution there is a great potential for the institution to share the expertise, findings and data from Annual Report in the programming phase to ensure EU funds are used to efficiently respond to the challenges in the fundamental rights protection.

However, the question which stems from this analysis is how different OPs' structures interact with different bodies with human rights remit nationally (eg. which body is included or asked for the Opinion), whether involvement of these bodies is continuous and throughout all phases of EU funds (from partnership agreement onwards), if it is timely involvement (does it allow for sufficient time to react) and if it is substantial (is there a space for discussion), so to be able to detect and react to potential challenges to fundamental rights, considering a complex environment of EU funds.

Additionally, as was described above, the inclusion of the national bodies with human rights remit in the monitoring committees varies as well as their role in them (do they have a voting right or not). The monitoring committees are potentially also the space for Ombuds institutions to inform the members of the committee about the key challenges of human rights in Croatia by presenting their reports and recommendations related to the specific EU funding programme and their objectives. Namely, the Ombudswoman, Ombudswoman for Persons with Disabilities, Ombudswoman for Gender Equality and Ombudswoman for Children publish their annual (work) reports that are an overview of human rights challenges within their mandates and as such could be used by Monitoring Committees and structures for management and control of funds to evaluate and adjust their activities.

What has been identified as a strong point of cooperation between managing authorities and independent institutions are trainings related to the EU Charter and Convention on the Rights of Persons with Disabilities and compliance of EU funds with them.

Finally, it is important to take into account limited capacities and lack of dedicated expert staff among independent human rights institutions. If a stronger role is to be expected from national human rights institutions and equality bodies regarding monitoring compliance of EU

funds with human rights, it must be accompanied by adequate human, financial and spatial capacities. Equally so, support in strengthening their capacities in both relation to the Charter and EU funds should be ensured as at the moment these are not part of substantial and regular work on the issue.