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2020 Rule of Law Report The rule of law situation in the European Union

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ABSTRACT

The Croatian justice system has made progress on reducing backlogs and improving electronic communication in courts, but is still experiencing serious efficiency and quality challenges. The level of perceived judicial independence remains among the lowest in the EU. The State Judicial Council and the State Attorney's Council, autonomous and independent bodies, are facing challenges to adequately fulfil their mandate due to a lack of sufficient resources as well as the fact that their role in selecting judges and state attorneys has been reduced. These Councils also lack an upgraded IT system that would allow them to effectively verify the asset declarations of judges and state attorneys. The centralised postal delivery of court documents is a positive example of saving resources in courts.

Croatia has the legal and policy framework to promote integrity and prevent corruption in the public sector broadly in place. A network of authorities contribute to anti-corruption policy-making across all branches of government. However, shortcomings remain both in the legislation and practices to combat corruption. Important initiatives to strengthen ethics and integrity amongst top executive functions and Members of Parliament and to regulate lobbying remain unimplemented. Corruption remains of particular concern at the local level due to structural weaknesses in the integrity framework for local office-holders and the management of local State-owned companies. On 18 September 2020, the Minister of Justice and Public Administration announced a new Anti-Corruption Strategy for 2021-2030.

Croatia's legal and institutional framework guarantees media pluralism. The Agency for Electronic Media, which is the audiovisual media regulator, functions transparently, but it is not entirely shielded from political influence in relation to the selection procedure of the members of its governing body. The rules on transparency of media ownership ensure a solid system of ownership notification to the authorities and the public, but the identification of the beneficial owner can be problematic. Recent years witnessed a high number of lawsuits against journalists, threats of physical attack and online harassment, which may have an impact on the editorial policy of media companies and on the work of investigative journalists.

The system of checks and balances is supported, among others, through online tools for consultation of the public and other stakeholders, and by a People's Ombudsperson and an Information Commissioner competent for protecting the right to access public information. However, citizens' involvement in decision-making remains relatively weak. Constitutional review is carried out by the Constitutional Court, including on the basis of individual constitutional complaints. The Government is preparing a national plan to support the civil society for the period 2020-2026.

I. JUSTICE SYSTEM

Croatia has a three-tiered justice system, including courts of general and specialised jurisdiction. The first instance courts of general jurisdiction are Municipal (34) and County (15) courts, with the latter also functioning as second instance courts. The courts of specialised jurisdiction are nine Commercial and four Administrative courts at first instance, and the High Misdemeanour Court, the High Commercial Court and the High Administrative Court at second instance.¹ The Supreme Court serves both as a second and third instance court.² An independent State Judicial Council, a self-governance body, ensures the autonomy and independence of the judiciary. It selects and appoints judges and Court Presidents, and decides on their disciplinary responsibility or dismissal. The State Attorney's Office (DORH) is an autonomous, independent judicial body, mainly acting as the prosecution service, and is headed by the State Attorney General.³ The powers over appointment and career of state attorneys, and the management of the Office rest with the State Attorney's Council and the State Attorney General.⁴ The State Attorney's Council is an independent self-governance body tasked with ensuring the autonomy and independence of the State Attorney's Office. Among others, it selects and appoints state attorneys and deputy state attorneys, and decides on their disciplinary responsibility or dismissal. The Croatian Bar Association is an independent, self-governing professional organisation.

Independence

The level of perceived judicial independence, both among companies and among the general public, remains very low. In 2020, the level of perceived judicial independence among the general public remains the lowest in the EU (only 24% perceived judicial independence to be fairly and very good), although it improved compared to 2019.⁵ In the same time period, the level of perceived judicial independence among companies decreased further (the share perceiving judicial independence to be fairly or very good decreased from 18% to 16%), although Croatia's ranking improved to the second lowest in the EU.⁶ A different survey among businesses shows that the level of perceived independence has been decreasing continuously since 2014-15 and remains the lowest among Member States.⁷ According to the 2020 Eurobarometer study, the main perceived reason cited by the general public for the perceived lack of independence of courts and judges is the perception of interference or pressure from the Government and politicians.⁸ The main perceived reason

¹ The establishment of a new High Criminal Court is suspended, pending a decision of the Constitutional Court.

² The Supreme Court acts as a second instance court when reviewing criminal cases from County courts and as a third instance court in exceptional appeals and extraordinary remedies.

³ The State Attorney's Office has two departments, one acting as the prosecution service, and the other undertaking legal actions to protect the property of Croatia and to apply legal remedies to protect the Constitution and the law.

⁴ Figures 55 – 57, 2019 EU Justice Scoreboard.

⁵ Figure 44, 2020 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁶ Figure 46, 2020 EU Justice Scoreboard.

⁷ See the World Economic Forum surveys, presented in Figure 59, 2018 EU Justice Scoreboard, and Figure 48, 2020 EU Justice Scoreboard.

⁸ Figure 45, 2020 EU Justice Scoreboard. To be noted that the share of general public stating this reason remains the highest in the EU among the general public in comparative terms.

stated by the companies is the perception of interference or pressure from economic or other specific interests, closely followed by the perception of interference or pressure from the Government and politicians.⁹ Since the last comprehensive survey of court users or legal professionals was conducted in 2015, there is no recent data examining in more detail the specific reasons among the different stakeholders behind the persistently low level of perceived judicial independence concerning the Croatian justice system.¹⁰

The State Judicial Council and the State Attorney’s Council are facing challenges following amendments that reduced their role in selecting judges and state attorneys.

The Law on State Judicial Council¹¹ and the Law on State Attorney’s Council¹² were amended in 2018.¹³ These changes were triggered by a judgment delivered in 2018, in which the Constitutional Court¹⁴ held that the State Judicial Council had not provided sufficient reasoning in its decision on the appointment of a judge to another court.¹⁵ Judicial and prosecutorial posts are filled in a merit-based process based on a scoring system, which takes into account two elements. The first one is either the final score of the candidate in the National School for judges or state attorneys or, in case of appointment to another court of an existing judge, the assessment of judicial performance. The second element is the interview

⁹ Figure 47, 2020 EU Justice Scoreboard. To be noted that the share of companies who mentioned these reasons remains the highest in the EU among companies in comparative terms.

¹⁰ See Figure 45, 2017 EU Justice Scoreboard, which shows that in 2015 a survey was conducted into the following topics: accessibility of the court service, customer service at the court, the conducting of the hearing, the judgment/decision of the court, and the service provided by the lawyer. See also Figure 49, 2018 EU Justice Scoreboard, Figure 42, 2019 EU Justice Scoreboard, and Figure 42, 2020 EU Justice Scoreboard, showing that in 2016, 2017, or 2018, no surveys were conducted.

¹¹ The State Judicial Council has eleven members, consisting of seven judges elected by their peers, two university professors of law and two Members of Parliament, one of whom is from the opposition. Members of the Council are elected for a four-year term, and can be re-elected only once. The Council is responsible for appointing and dismissing judges and court presidents, deciding on the immunity, transfer and external activities of judges, conducting disciplinary proceedings and deciding on disciplinary responsibility of judges, participating in training of judges and court clerks, adopting a methodology for evaluating judges, keeping the personal records and verifying asset declarations of judges.

¹² The State Attorney Council has eleven members, consisting of seven deputy state attorneys elected by their peers, two university professors of law and two Members of Parliament, one of whom is from the opposition. The members of the Council are elected for a four-year term, and can be re-elected only once. The Council’s mandate includes the appointment and dismissal of state attorneys, deciding on the transfer of and external activities of state attorneys, conducting disciplinary proceedings and deciding on disciplinary responsibility of state attorneys, participating in the training of state attorneys, deciding on objections to evaluations of state attorneys, keeping the personal records and verifying the asset declarations of state attorneys.

¹³ Amended Articles 55, 55a and 56, Law on State’s Judicial Council, July 2018, NN 67/2018. Articles 56 and 57, Law on State’s Attorney’s Council, July 2018, NN 67/2018.

¹⁴ To be noted that the review before the Constitutional Court is a regular remedy available to any unsuccessful candidate for a position of a judge or state attorney.

¹⁵ Constitutional Court, judgment of 22 May 2018, U-III-5074/2017. Since the reasoning in the State Judicial Council’s decision was insufficient, the Constitutional Court struck it down and returned the matter to the Council for a new procedure and decision-making. In particular, the Constitutional Court stressed that the Council had failed to justify why it had chosen a candidate that had a lower number of points, which are assigned to every candidate according to pre-established criteria in the Law on State Judicial Council and related Council acts (e.g. based on the results of previous judicial work, experience, advanced legal degrees). Following the prescribed assigning of points, most candidates are awarded a relatively similar number of points and are therefore close to each other on the list of candidates. The Constitutional Court in a later judgment of 24 June 2020, U-III-3053/2018, again struck down the decision of the State Judicial Council of July 2018 in a repeated appointment procedure following its judgment U-III-5074/2017. The Court again stressed (see para. 42) the obligation of the State Judicial Council to provide reasoning disclosing the criteria and reasons on which it based its appointment decision, and that this requirement does not impede the autonomy and independence of the Council.

before the respective Council. However, as raised by the Constitutional Court, despite having been awarded fewer points, candidates could still be selected without proper reasoning. The stated aim of the 2018 amendments was to increase the objectivity and transparency of the appointment procedure by, among others, decreasing the number of points that each Council can award to candidates based on the interview.¹⁶ In doing so, however, the amendments reduced the possibility of Councils to distinguish amongst candidates through the award of points after the interview. They also limited the choice of candidates among which the Councils can conduct an interview. The combined effect of these changes was to diminish the role of the Councils in selecting candidates for judicial or prosecutorial office. The consequences of these amendments could be seen in some procedures for appointment in 2019 and 2020, where Councils faced challenges in trying to avoid reducing the appointment procedure to a mechanical counting of points.¹⁷ The decision of the Constitutional Court has triggered a reflection in the State Judicial Council and the State Attorney's Council on how to improve the reasoning in their decisions and opinions, including through more clearly defined criteria to be taken into account when assigning the points in the interview. However, the possibility of further improving the work quality of both Councils, including by following best practices on appointment of judges developed among Councils for the Judiciary, is more work-intensive and therefore dependent upon the availability of sufficient financial and human resources.¹⁸ In that respect, it should be noted that both Councils are facing significant resource challenges and that their administrative capacity is very low, despite an increase of financial resources.¹⁹

The verification of asset declarations of judges and state attorneys remains a challenge for the State Judicial Council and the State Attorney's Council. Amendments to the Law on the State Judicial Council in 2018, and a new 2018 Law on the State Attorney's Council provided for the online system of asset declarations of judicial officials. The online platform aims at enhancing integrity and transparency, preventing conflicts of interest as well as strengthening public trust in the justice system. The publication of assets of judges and state attorneys, which is now expected in the course of 2020, was delayed by the need to address data protection requirements raised by the Data Protection Authority.²⁰ However, the envisaged IT system for the automated verification of asset declarations is not yet operational. Notably, the asset declarations database is not yet connected with the database of the tax authority and the land registry.²¹ Consequently, it is not yet possible to automatically detect inconsistencies between the declared and real assets. Support with electronic tools and adequate human resources would be needed to ensure that the State Judicial Council and the State Attorney's Council can effectively and quickly verify the declarations, if possible already prior to their publication online. Disclosure of only verified and corrected data is

¹⁶ See the explanatory memorandum to the draft amendments, https://www.sabor.hr/sites/default/files/uploads/sabor/2019-01-18/081446/PZ_301.pdf.

¹⁷ Information received in the context of the country visit.

¹⁸ For example, according to best practices, shared among the members of the European Network of Councils for the Judiciary, some councils compare, based on a set of criteria, each candidate judge with everybody else. Such a practice requires adequate human resources in the council.

¹⁹ See more on the Councils' resource issue below, section on Quality of the Justice system.

²⁰ Input from Croatia for the 2020 Rule of Law Report.

²¹ The upgrade of the IT system for submitting and making publicly available asset declarations of judicial officials requires further action in relation to the automatic verification of data. This includes concluding memorandums of understanding between the State Judicial Council and the State Attorney's Council and other competent bodies (e.g. Tax Administration, Land Registry, Ministry of Interior), regarding the information exchange that the relevant competent authorities have in their databases.

important for achieving the declared objective of the reform, which is increasing public trust in the justice system.

Quality

Despite continued progress, the use of electronic communication and electronic case management systems in courts remains limited. Information and Communication Technologies (ICT) for case management and the electronic communication between courts and parties are among the least developed in the EU.²² For example, it is not always possible to submit a case or to receive summons electronically. In recent years, continued advances have been made with regard to the ICT system for case management, including plans to extend the unified system to the administrative courts, which currently use a legacy ICT system. As regards the electronic communication between courts and parties²³, the possibility to submit claims electronically has so far been introduced in all Commercial, County and Municipal courts.²⁴ However, room for improvement remains, particularly in County and Municipal courts, where uptake remains low in communication with the tax authority and in popularising the tools among the legal professionals.²⁵

In order to unburden the courts' administrative staff and speed up the delivery of judicial decisions, in 2019, a centralised postal delivery was introduced. This tool enables the electronic submission of documents (signed by qualified electronic signature) from the courts to the postal service provider for delivery in letter form to court parties (the status of delivery is updated online). In May 2020, the centralised postal delivery increased to about 80% of all court writs in Commercial courts (about 28% in Municipal courts), while the uptake in County courts remained low.²⁶

The State Judicial Council and State Attorney's Council, as well as the State Attorney's Office, are experiencing challenges in terms of human resources. The State Judicial Council and the State Attorney's Council have considerable powers²⁷, but their administrative capacity remains very limited. The number of employees is very low, taking into account that only the President of the State Judicial Council is mostly relieved of his/her judicial duties (by 75%), while other judge-members are relieved only in a small part (by 20%).²⁸ In the

²² Figures 40 and 27, 2020 EU Justice Scoreboard.

²³ The ICT system allows, via a qualified electronic signature, for submission of documents from lawyers, insolvency administrators, court experts and public notaries. In 2019, electronic communication with court users exceeded 90,000 exchanges in Commercial and 17,000 in some Municipal courts (mostly from lawyers, and insolvency cases from insolvency administrators and the Financial Agency (FINA), and less from notaries and court experts).

²⁴ In May 2020, out of all writs in Commercial courts, about 36% of court filings from parties (23% in Municipal courts), and 44% of writs sent from courts to parties have been sent through e-Communication (18% in Municipal courts). Input from Croatia for the 2020 Rule of Law Report.

²⁵ To be noted that in order to tackle the issue, the Ministry of Justice requested support through the Structural Reform Support Programme – 2020. The project “Support to the implementation of e-communication in Croatian judiciary”, to be implemented with the Council of Europe (CEPEJ), will support the Ministry of Justice to address the poor uptake of the e-communication system and popularize it, in order to fully take advantage of the benefits of digitalized processes for the end users.

²⁶ Data on the use of electronic communication, Ministry of justice, 2020.

²⁷ See footnotes 11 and 12 above.

²⁸ See Art. 4.a, Law on the State Judicial Council. President and members of the State Attorney's Council, who are state attorneys, are not relieved of their professional duties. For a comparative perspective of resources of Councils for the Judiciary, see ENCJ contribution to the Rule

period 2017-2019, the financial resources of the State Judicial Council and the State Attorney's Council increased by 25% and 28%, respectively. However, due to a lack of financial resources, in 2020, the State Judicial Council employed only five officials, despite the personnel plan allowing for eleven officials. The State Attorney's Council has only three officials (personnel plan allows for ten officials). Given the lack of sufficient human resources, the State Attorney's Council faces difficulties in developing a strategic approach to improving the overall quality of the State Attorney's Office.²⁹ The lack of resources at both Councils presents a serious challenge particularly in relation to the upcoming publication of assets, and the need to verify the information submitted by 1,712 judges and 635 state attorneys.³⁰ As regards the State Attorney's Office, the human resources have been increased (new deputy state attorneys and trainees). However, it remains difficult to attract qualified candidates for specialised financial investigators, because of uncompetitive employment conditions.³¹ The lack of financial specialists has negative repercussions on the ability of the State Attorney's Office to fight against economic and financial crime, since these investigators were meant to assist state attorneys in analysing complex financial data. The State Attorney's Office proposed to the Government to raise the salaries of prospective financial investigators.³²

The consecutive judicial map reforms, the latest in 2019, have contributed to evening out the workload among judges and to improving efficiency. The 2015 judicial map reforms reduced the number of first instance courts, and changed the allocation of appeal cases to all second-instance courts, with some becoming specialised.³³ In 2019, all Misdemeanour courts were integrated into the Municipal courts.³⁴ The reform was justified by a trend in recent years of decreasing numbers of misdemeanour cases, requiring flexibility in assigning judges to these cases. The new reform could bring efficiency gains, as more judges could work in areas facing challenges (e.g. civil cases). At the end of 2019, the establishment of a specialised second instance High Criminal Court was put on hold, following an order for interim measures of the Constitutional Court, which is examining a request for constitutional review of the amendments establishing this Court.³⁵

Publication of first and second instance court judgments remains very limited. The rate of online publication of judgments is the lowest in the EU.³⁶ The upgraded ICT system is capable of processing a larger number of judgments. However, online publication remains very limited, as the judgments are not systematically prepared (e.g. anonymised) and

of Law Report, May 2020, p. 9. For a comparative perspective on powers of the Councils for the Judiciary, see Figure 50, 2016 EU Justice Scoreboard.

²⁹ In particular, the training of entry-level prosecutors could be further improved, by focussing on practical skills.

³⁰ See more on the issue of publication of assets above, section on Independence of the Justice system. Data on the number of judges and State Attorney's on 31 December 2019, Input from Croatia for the 2020 Rule of Law Report.

³¹ Report for 2019 of the State Attorney's Office.

³² With the aim of encouraging employment of financial investigators, the employment procedure for this post has been simplified. Upon request of the State Attorney's Office, the Government has the authority to allocate *ad hoc* additional resources related to specific complex cases, which includes the hiring of financial investigators.

³³ The reform also enlarged the geographic areas of first instance courts, which may entail a more regular use of the power entrusted to the Presidents of Municipal courts to assign, by means of an annual work plan, judges to particular types of cases or geographic locations. To be noted that a judge, who is dissatisfied with the annual work plan, is able to request review from the County Court President.

³⁴ This reform reduced the number of first instance courts from 46 to 34.

³⁵ Constitutional Court, U-I-4658/2019, U-I-4659/2019, 17.12.2019.

³⁶ Figure 28, 2020 EU Justice Scoreboard.

uploaded into the platform. In addition, the machine readability of published judgments, which would allow the development of services for court users based on artificial intelligence solutions, is the second lowest in the EU.³⁷

Efficiency

Despite progress in resolving the oldest cases, the backlogs and length of proceedings in civil and commercial courts remain among the most considerable in the EU.³⁸ In 2019, the average length of proceedings in the first instance courts remained among the longest in the EU, with around 855 and 735 days for litigious civil and commercial cases, respectively, an increase compared to 2018.³⁹ The average length in enforcement cases before Municipal and Commercial courts continuously increased, reaching 797 days. However, before second instance County courts, the litigious civil cases took only 258 days, on average.⁴⁰ Similarly, at second instance High Commercial Court, the average length of litigious commercial cases further decreased to 634 days. At the Supreme Court, it took 720 days, on average, to resolve a civil case. A Ministry of Justice initiative to resolve the pending cases 10 years and older, developed in cooperation with Court Presidents who voluntarily prepare action plans, continued with solid results. Between 2016 and 2019, the number of such cases was reduced by about 50%.⁴¹ Backlogs in commercial cases continued to decrease, mainly due to improved business processes initiated by the High Commercial Court. Despite the latter experiencing an increase in incoming cases, the backlogs were reduced by more than 20% at the end of 2019, compared to 2018. These improvements in handling commercial cases consist in assigning procedural work to the court staff, thereby allowing the judges to focus on the merits of the case. The business process reform is being partially extended to the first instance Commercial courts. Further progress in reducing backlogs was also achieved in civil cases at all instances, but the Municipal courts are currently facing an exceptional influx of cases concerning loans linked to the Swiss franc⁴² and personal insolvencies.⁴³

Amendments to the criminal procedure aim to increase the efficiency of the criminal justice system, where considerable backlogs and lengthy proceedings remain a challenge. In 2019, backlogs and length of proceedings increased in first instance cases at Municipal and County courts (to 678 and 930 days on average, respectively). This increase was partly due to the priority given to resolving the oldest cases, which raised the average length of resolved cases. However, at the Supreme Court, it only took 138 days, on average, to resolve a criminal case in 2019. A reported lack of procedural discipline by lawyers in court proceedings for approving indictments often leads to considerable delays.⁴⁴ Amendments of December 2019 to the Criminal Procedure Act aim to speed up proceedings before the indictment panel and criminal proceedings as a whole.⁴⁵ In 2019, the State

³⁷ Figure 29, 2020 EU Justice Scoreboard.

³⁸ Figures 5 – 19, 2020 EU Justice Scoreboard.

³⁹ Data for 2019, Ministry of Justice.

⁴⁰ Compared to 2018, the length of proceedings further decreased in 2019.

⁴¹ Input from Croatia for the 2020 Rule of Law Report.

⁴² Following the Supreme Court judgment on the availability of legal remedy in those situations. Supreme Court, Judgment of 12 February 2019, Rev 2868/2018-2.

⁴³ Following the amendments to the Law on Personal Insolvency, 10.7.2018, NN 67/2018-1364, .

⁴⁴ Information received in the context of the country visit.

⁴⁵ The issue stems from the previous possibility for defence lawyers to request from the panel of judges to declare the evidence submitted by the State Attorneys as inadmissible in a consecutive way, in different hearings of the panel of judges that is reviewing the submitted indictment. The consequence of this procedure was that each time that the panel rejected to declare a piece of evidence as inadmissible, the lawyers could start separate appeal procedure, which then ended up before higher courts, and long lasting

Attorney's Office processed more criminal cases than it received (a clearance rate of 102%), which lowered the backlogs by almost 23%.⁴⁶

II. ANTI-CORRUPTION FRAMEWORK

Croatia has developed a legal and policy framework to promote integrity and prevent corruption in the public sector and for that purpose, it has established a network of authorities that contribute to policy-making across all branches of government. Croatia has a specialised prosecutor's office charged with prosecuting corruption and organised crime, the Office for the Suppression of Corruption and Organised Crime (USKOK),⁴⁷ as well as a specialised police department within the Ministry of the Interior, the Police National Office for the Suppression of Corruption and Organised Crime (PNUSKOK). The latter is mandated to prevent, detect, and investigate complex corruption-related crimes.

In the 2019 Transparency International Corruption Perceptions Index, Croatia has a score of 47/100 and ranks 18th among EU Member States and 63rd globally. Croatia also features among the worst performing Member States in the 2020 Eurobarometer survey on citizens' perception of corruption.⁴⁸ 97% of Croatians consider corruption to be widespread in their country (EU average 71%) and 54% of people feel personally affected by corruption in their daily lives (EU average 26%). As regards businesses, 91% of companies consider corruption to be widespread (EU average 63%), and 57% of companies consider that corruption is a problem when doing business (EU average 37%). In addition, 28% of people find that there are enough successful prosecutions to deter people from corrupt practices (EU average 36%), while 16% of companies consider that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%).⁴⁹

The legal framework is largely in place. The Criminal Code criminalises different types of corruption and provides specific penalties, sanctions and measures such as confiscation or seizure. However, in accordance with the Law on Government, members of the Government cannot be prosecuted without the prior approval of the Government itself for a criminal offence for which up to five years' imprisonment is foreseen.⁵⁰ GRECO has stated that a review of the system of political immunities for members of the Government is needed, as it is too far-reaching and needs to exclude corruption-related offences to prevent it acting as an obstacle to the prosecution of high-level corruption.⁵¹ In July 2020, the Government announced that it would propose to abolish the immunity regime for members of the Government.⁵²

appeal procedures. According to the amended rules, the requests for inadmissibility of evidence will now have to be concentrated in one hearing of the panel, and will later not be allowed, with some explicitly listed exceptions.

⁴⁶ Report for 2019 of the State Attorney's Office, April 2020, p. 17. The following types of criminal cases are counted in this overview: criminal notifications from police, public and others, investigation, research, second instance procedure, request for protection of legality in criminal and misdemeanour cases, and other criminal cases (in total amounting to nearly 129 000 incoming cases in 2019).

⁴⁷ In Zagreb, Split, Rijeka and Osijek.

⁴⁸ Special Eurobarometer 502.

⁴⁹ 482 Flash Eurobarometer.

⁵⁰ GRECO Fifth Evaluation Round – Evaluation Report, recommendation xi, para. 96.

⁵¹ GRECO Fifth Evaluation Round – Evaluation Report, recommendation xi, para. 99.

⁵² <http://hr.n1info.com/Video/Info/a529417/Plenkovic-najavio-ukidanje-imuniteta-za-clanove-Vlade-To-je-relikt-devedesetih.html>.

The Anti-Corruption Strategy 2015-2020 focuses primarily on the prevention of corruption. The strategy contains seven horizontal goals and includes the “integrity of the political system and administration” as one of its primary objectives. The overarching strategy was accompanied by three more detailed two-year action plans. These focussed primarily on educational and training initiatives and developing guidance manuals as well as planning dedicated legislation. The 2015-16 and 2017-18 plans were both partially implemented, and assessments show that 88% of 2019’s planned activities are either implemented, or partially implemented.⁵³ However, certain crucial legislative and integrity initiatives were delayed.⁵⁴ In May 2019, the Government adopted the Anti-Corruption Programme for state-owned companies 2019-2020, with measures focussing on intensifying internal and external supervision of majority state-owned companies and establishing transparent criteria for assessing business efficiency. Other measures focus on creating clear rules on the appointment of members of management and supervisory boards, and strengthening mechanisms to prevent conflicts of interest.⁵⁵ Reportedly, however, the proposed introduction of compliance and ethics officers to increase transparency and efficiency in state-owned enterprises has not been implemented by several entities.⁵⁶ On 18 September 2020, the Minister of Justice and Public Administration announced a new Anti-Corruption Strategy for 2021-2030.⁵⁷

A network of authorities is established for anti-corruption policy-making across all branches of government. The Ministry of Justice is the central corruption prevention body with a dedicated unit for coordinating the implementation of anticorruption strategies and related action plans. It also acts as a central body for exchanging data on the suppression of corruption.⁵⁸ The Council for the Prevention of Corruption, a government advisory body composed of representatives of public institutions and Non-Governmental Organisations, and the National Council for Monitoring the Implementation of the Strategy for Combating Corruption and report to Parliament twice a year. Besides the key repressive bodies, namely USKOK and PNUKOK, several other bodies exist in the framework to prevent corruption. These include the Ministry of Public Administration, the State Audit Office, the Anti-Money Laundering Office, the Commission for the Prevention of Conflicts of Interest and the State Commission for Supervision of Public Procurement Procedures.

Whilst civil servants abide by a code of conduct, there is no such code in place for Members of Parliament and top executive functions. The Civil Servants Act and the Code of Ethics for Civil Servants (the Code) establish basic ethical principles. The Code sets out the rules of conduct and establishes an institutional framework for its implementation. The Ethics Commission for Civil Servants is a second-instance body dealing with complaints from citizens and officials, and an Ethics Department within the Ministry of Public Administration provides educational activities. Whilst a code of ethics is in place for civil servants, a code of conduct for Members of Parliament is lacking. A related GRECO

⁵³ Croatian Parliament report on Action plan implementation: 55/126 actions for 2015-2016 were implemented (44%), some unimplemented actions were transferred to the following year. 87/126 actions in the 2017-2018 action plan were implemented (69%).

⁵⁴ Anti Corruption Action Plans 2016-2020.

⁵⁵ Antikorupcijski program za trgovačka društva u većinskom državnom vlasništvu 2019-2020.

⁵⁶ Information received in the context of the country visit.

⁵⁷ Announcement of 18 September 2020: <https://vlada.gov.hr/vijesti/malenica-najavio-izradu-nove-strategije-borbe-protiv-korupcije/30397>

⁵⁸ Regulation on Internal Organisation of Ministry of Justice (Art. 126).

recommendation asked to develop and adopt such a code, coupled with a supervision and enforcement mechanism.⁵⁹ Similarly, no code of conduct providing guidance on conflicts of interest and other integrity-related matters is in place for top executive functions.⁶⁰

Legislation on the prevention of conflicts of interest is in place, although it needs attention as regards its implementation and a clear authority of its supervisory body.

The Law on the Prevention of Conflicts of Interest contains detailed rules on conflicts of interest, incompatibilities, gifts and financial declarations. It sets out the general principles of action in the exercise of public office, including persons entrusted with top executive functions. The law confers a central role on the independent Commission for the Resolution of Conflicts of Interest ('the Commission'), which supervises the implementation of the law, verifies financial declarations and conducts trainings.⁶¹ The Commission can initiate conflicts of interest proceedings and render decisions on whether a particular action represents an infringement. It can impose sanctions, such as admonition or withholding part of an official's monthly salary. It has played a proactive role in upholding the Law on the Prevention of Conflicts of Interest, in particular when it comes to top executive functions. Whilst it can impose administrative sanctions for non-compliance, its ability to verify information and enforce decisions appears limited by its lack of full access to information and non-cooperation by officials. Upon judicial review, decisions of the Commission have been quashed, in particular concerning top executive functions. Past decisions have also triggered criticism from the Government, leading the Commission and Non-Governmental Organisations to notify the Council of Europe of increased non-compliance with its decisions.⁶² The Commission is dependent on the cooperation of authorities when it comes to checks on the financial declarations. However, GRECO has also issued several recommendations with regard to the Commission's role. These include improved possibilities to obtain information necessary for the verification of financial declarations, reviewing the available sanctions for violations of the Law on the Prevention of Conflicts of Interest to ensure adequate consequences, and enabling the effective verification of financial declarations. It also recommended that a requirement of *ad hoc* disclosure be introduced for top executive functions in situations of conflicts between private interests and official functions.⁶³ Whilst the authorities have increased the Commission's budget and plan to amend the Law on the Prevention of Conflicts of Interest in 2020, the European Commission and international evaluations have highlighted the importance of ensuring that the Conflicts of Interest Commission has sufficient powers to impose deterrent sanctions and perform its essential preventive role.⁶⁴ Croatia is planning amendments of the Law on the prevention of conflicts of interest and the Ministry of Administration established a Working Group for the preparation of this draft proposal.

⁵⁹ GRECO Fourth Evaluation Round – Evaluation Report, recommendations i and iii.

⁶⁰ GRECO Fifth Evaluation Round – Evaluation Report, recommendation ii, para. 41.

⁶¹ Prevention of Conflicts of Interest Act.

⁶² GONG letter to GRECO, 1.10.2019.

⁶³ GRECO Fifth Evaluation Round – Evaluation Report, recommendations viii, ix and x, para. 4.

⁶⁴ Communication from the Commission to the European Parliament and the Council on the verification of the full application of the Schengen acquis by Croatia, COM(2019) 497 final, 22.10.2020; Council Recommendation of 20 July 2020 on the 2020 National Reform Programme of Croatia and delivering a Council opinion on the 2020 Stability Programme on the 2020 Convergence Programme of Croatia, <https://data.consilium.europa.eu/doc/document/ST-8430-2020-INIT/en/pdf>.

In 2018, HRK 5,048,458.28 was allocated for the work of the Commission. In 2019 the allocated amount was HRK 6,493,939.00. The budget for 2020 amounts HRK 7,810,718.

While measures exist to prevent local-level corruption, the corresponding supervisory and enforcement mechanisms remain weak. Croatia has established a framework governing the prevention of conflicts of interest of state and local officials, consisting of special Acts. The Civil Servants and Employees in Local and Regional Self-Government Act applies to local officials employed in the governing bodies of local and regional self-government units. Whilst not prohibiting the existence of private interests, it forbids the abuse of office from unresolved conflicts of interest and establishes sanctions for non-compliance. In spite of this, the large majority of corruption cases occur at local or county level. Eurobarometer surveys indicate that concerns regarding conflicts of interest remain at both local level and at the level of state-owned and controlled companies, many of which are owned/controlled by municipalities.⁶⁵ Yet, the current scope of legislation on conflicts of interest does not include the chairpersons and board members of companies in which the local government has a majority share, as well as the presidents and board members of companies that are majority-owned by these companies. However, Croatia is planning amendments of the Law on the Prevention of Conflicts of Interest, and the Ministry of Administration established a Working Group for the preparation of this draft proposal. In addition, the current Law on Local and Regional Self-Governance gives local officials considerable discretion in decision-making about disposals of assets and finances of up to one million Croatian kuna (HRK) and on the appointment of board members of public local companies, leaving substantial scope for corruption. At the regional level, 17 counties have recently set up their own Anti-Corruption Commissions and some have adopted internal action plans to combat corruption and develop codes of conduct for officials at regional level.

Although rules are in place for asset declarations and ‘revolving doors’, these have shortcomings. Officials covered by the law on prevention of conflicts of interest are required to declare assets, whether acquired or inherited, and to identify the source of income from professional and non-professional activities. They are also required to declare the assets and income of their spouses or partners and any underage children. The Commission for the Prevention of Conflicts of Interest publishes the contents of these declarations online.⁶⁶ However, in practice, officials only submit their declarations upon taking up their position and upon termination or re-appointment, whilst not submitting *ad hoc* declarations to reflect any change in status during their mandate. Whereas the Commission may request an *ad hoc* declaration, it has a limited ability to sanction incorrect declarations. Individuals in top executive functions, even though expected to adhere to higher integrity and transparency standards, are not obliged to submit regular financial declarations.⁶⁷ The Law on the Prevention of Conflicts of Interest contains a cooling-off period of one year for officials. This period has been considered too short by GRECO, which has also recommended that the Commission for the Prevention of Conflicts of Interests be given a mediating role in assessing potential conflicts in movement from the public to the private sector.⁶⁸

There are no detailed rules to regulate contacts of individuals in top executive functions with lobbyists. There are also no reporting or disclosure requirements applicable to those who seek to influence government actions and policies. Rules on how to engage with lobbyists and other third parties seeking to influence the Government’s decision-making were recognised in successive anti-corruption plans, and the latest plan intends to draft a framework regulating lobbying in 2020.

⁶⁵ State Attorney’s Office, Report for 2019, April 2020, and Eurobarometer 502 and Eurobarometer 482.

⁶⁶ GRECO Fifth Evaluation Round – Evaluation Report, recommendation vii, para. 79.

⁶⁷ GRECO Fifth Evaluation Round – Evaluation Report, recommendation viii, para. 82.

⁶⁸ GRECO Fifth Evaluation Round – Evaluation Report, para. 78.

Whistle-blower protection was introduced by the July 2019 Law on the Protection of Reporters of Irregularities Act. The law has a wide scope of application, which extends beyond corruption to include violations of laws, regulations and actions that pose threats to the public interest. The People's Ombudsperson is the body competent for the external reporting of irregularities. In accordance with its new mandate, the Ombudsperson received additional resources from the state budget for promotional activities.⁶⁹ The Ministry of Justice is also carrying out training for officials in charge of implementing the Act and a media campaign is planned. However, across the EU, Croatia recorded in 2019 the most marked increase since 2017 in citizens mentioning the lack of protection for whistleblowers as the primary reason for not reporting corruption cases (39%, + 10 percentage points since 2017).⁷⁰

Despite negative perceptions, specialised offices have established a consistent track record for prosecuting corruption. In April 2019, the Ministry of Justice established a working group for drafting amendments to the Law on the Office for the Suppression of Corruption and Organised Crime. The amendments aim to increase the efficiency in prosecuting organised crime and corruption, as well as to align and harmonise it with other relevant domestic legislation.⁷¹ Both USKOK and PNUSKOK have built up a track record in investigating and prosecuting high-level corruption-related offences.⁷² According to the State Attorney's Annual Report, during 2019 there were a total of 1 365 criminal complaints⁷³ to USKOK, of which 1 003 (about 73%) were related to corruption. Amongst these complaints, 879 (about 88%) were for abuse of power and authority and 124 (about 12%) related to corruption in a narrower sense. In 2019, indictments were raised against 109 persons. In 2019, USKOK received and resolved a larger number of cases, and registered a declining number of unresolved cases, compared to 2018. In 2019, about 90% of investigations led by prosecutors of USKOK took up to 6 months to complete, with length of investigation reduced from 12 months in 2016.⁷⁴ Despite the specialised services' record and recent reinforcements, the efforts to fight corruption are undermined by a lack of convictions and limited human resources, in particular as regards specialised investigators. Although there is a considerable number of investigations and indictments in cases related to organised crime and corruption, both the State Attorney's Office (DORH) and USKOK encounter issues with the inefficiency of the justice system, where lengthy court proceedings and appeals often impede closure of cases. In addition, high profile cases against former top officials remain unresolved and subject to lengthy procedures. As a result, 80% of respondents to a Eurobarometer survey consider that high-level corruption cases are not pursued sufficiently, and 74% consider that government efforts to combat corruption are ineffective (EU average 53%).⁷⁵

III. MEDIA PLURALISM

Freedom of expression and information are enshrined in the Constitution, while media plurality is ensured by different laws. The media regulator (Agency for Electronic Media; AEM) is an independent authority established by law. The rules on transparency require companies to report ownership data to AEM and to publish them in the Official Journal.

⁶⁹ 200.000,00 HRK.

⁷⁰ Special Eurobarometer 502 on Corruption.

⁷¹ Law on State Attorney's Office and Law on State Attorney's Council.

⁷² GRECO Fifth Evaluation Round – Evaluation Report, para. 13.

⁷³ <http://www.dorh.hr/fgs.axd?id=5289>.

⁷⁴ State Attorney's Office, Report for 2019, April 2020, p. 120.

⁷⁵ Special Eurobarometer 502 on Corruption.

Access to information is guaranteed by law. The protection of journalists is not specifically addressed in legislation, and the mechanisms available to all citizens apply.⁷⁶

The media regulator is by law an independent entity. The Electronic Media Act⁷⁷ details the competencies of the Agency for Electronic Media (AEM), its sanctioning powers and mechanisms to appeal its decisions. The regulator has legal personality. The seven members of the Agency's Council, including its President acting as the head of the Agency, are appointed by Parliament based on a recommendation from the Government following a public call for expression of interest. After their five-year term, a Council member may re-apply for the same position. Suspension and dismissal can take place due to unsuitability for the position or incompetence, or due to other compelling reasons related to the person. The decision is taken by Parliament, upon the proposal of the Government. The fact that Council members may be re-appointed for several terms and that the parliamentary majority has an important influence in the appointment of the Agency's decision-making body may, in practice, have an impact on the political independence of the regulator, as highlighted by some stakeholders and the MPM 2020.⁷⁸ The latter assessed the risk to independence and effectiveness of the media authority as medium.⁷⁹ As explained during the country visit, the budget of AEM is based on the income from the Agency's activity, which contributes to its independence. The AEM assures a high level of transparency by publishing online its decisions, minutes of meetings and the annual report. The Agency's decisions are, in addition, published in the Official Journal.

To ensure transparency of media ownership, media service providers need to report annually to the Agency for Electronic Media ownership details and ownership changes.

According to the Electronic Media Act, the reports must contain data on direct and indirect holders and the percentages of stocks or shares.⁸⁰ The ownership information is also made public in the Official Journal, and the law foresees sanctions in case of non-reporting. Political parties or politicians are not specifically excluded from media ownership by the law. The MPM 2020 expressed concern that the identification of the beneficial owner remains problematic and assessed the transparency of media ownership at medium risk.⁸¹ The proposed new Electronic Media Act envisages that the ownership information would have to be disclosed by providing an extract from the register of beneficial owners.

The allocation of state advertising is regulated for state administration and entities predominantly owned by the state. The Electronic Media Act stipulates that the state administration is required to use 15% of their annual funds, earmarked for the promotion of their services or activities, for advertising in the audio-visual and radio programmes of regional or local television or radio broadcasters. The state bodies need to report to the AEM annually about the advertising activities.⁸²

⁷⁶ Between 2019 and 2020 Croatia climbed 5 positions in the Reporters Without Borders World Press Freedom Index, now registering at 59th position worldwide. See <https://rsf.org/en/ranking/2019>

⁷⁷ Electronic Media Act.

⁷⁸ Media Pluralism Monitor 2020.

⁷⁹ In this context, it should also be recalled that the revised Audiovisual Media Services Directive (AVMSD) sets out specific guarantees for the independence and effectiveness of national media regulators. Croatia is expected to transpose the revised Directive in autumn 2020.

⁸⁰ Art. 52 of the Electronic Media Act.

⁸¹ It should be recalled in this regard that the revised AVMSD encourages Member States to adopt legislative measures providing that media service providers under their jurisdiction make accessible information concerning their ownership structure, including the beneficial owners.

⁸² Art. 33 of the Electronic Media Act.

Access to information is guaranteed by law, but the process appears to be slow. The Information Commissioner is an independent body which protects and implements the Law on Access to Information. While the right of access to information has been provided by law since 2003, the situation improved with the Law on Access to Information and the first Information Commissioner in 2013. The Commissioner provides legal protection of the right to access public information and its reuse (open data), monitors the publicity of authorities' work, and raises awareness. It has a relatively small office (17 employees). As required by the Law on Access to Information, each public authority must appoint an information officer for handling information requests.⁸³ The introduction of the power of direct sanctioning would contribute to counter violations. The Commissioner may file motions to indict and issue misdemeanour orders.⁸⁴ In 2019, more than half of the appeals made to the Information Commissioner were filed due to failure of the authorities to resolve requests for access to information within the legal deadlines.⁸⁵ The Information Commissioner issued a report⁸⁶ stating concerns about the implementation of the Right of Access to Information Act.⁸⁷ According to the MPM 2020, access to information 'is mostly exercised through appeal mechanisms and the direct involvement of the Information Commissioner'.⁸⁸

The framework for journalists' protection provides safety guarantees through several legislative acts. The Media Act⁸⁹ refers to the freedom of expression and media pluralism. In the context of editorial freedom, journalists have the right to express their opinion and not to pursue their tasks if this would go against the rules of the journalistic profession. In that case, the work contract cannot be changed to their detriment. Furthermore, journalists do not need to disclose their sources, unless the competent court orders the disclosure based on national security concerns. This holds for both already published and to-be-published information.⁹⁰

Journalists face numerous threats online, including smear campaigns, hate speech, death threats and threats of physical attacks.⁹¹ According to several reports and stakeholders, these often do not elicit a timely reaction by the authorities.⁹² The Criminal Code itself provides certain free speech and journalistic safeguards as it considers the 'violation of freedom of thought and expression' and "intimidation" to be criminal offences.⁹³ However, journalists are also subject to lawsuits themselves, often with an intimidating effect.⁹⁴ In 2019, well over 1000 lawsuits against journalists were filed.⁹⁵ While most of the cases are civil cases concerning 'compensation claims for alleged non-material damages',

⁸³ Currently, about 85% of the 5 900 public authorities have done so, but the definition of public authorities is very broad.

⁸⁴ However, court procedures are lengthy, and courts have rarely found against public authorities. Sustainable Governance Indicators Platform, 2019.

⁸⁵ Summary of the Report on the Implementation of the Right to Access Information Act for 2019.

⁸⁶ Report on the Implementation of the Right to Access Information Act for 2018.

⁸⁷ Act on the Right of Access to Information.

⁸⁸ Media Pluralism Monitor 2020.

⁸⁹ Art. 3 of the Electronic Media Act.

⁹⁰ Art. 27-30 of the Electronic Media Act.

⁹¹ Reporters without borders.

⁹² Reporters without borders; in this context, it should also be recalled that, in line with Recommendation CM/Rec(2016)4 of the Committee of Ministers of the Council of Europe, "Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear".

⁹³ Criminal Code, Art. 127.

⁹⁴ European Network of National Human Rights Institutions – The rule of law in the European Union, p. 53.

⁹⁵ European Federation of Journalists.

some cases are criminal cases. This wave of lawsuits⁹⁶ was the subject of an alert submitted to the Council of Europe’s Platform and was classified as “related to the harassment of journalists”.⁹⁷ In Croatia, imprisonment is among the envisaged sanctions for defamation, while the offence of strong shaming was removed from the Criminal Code in 2019.⁹⁸

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Croatia has a unicameral parliamentary system of government, in which the Constitutional Court can carry out ex-post constitutional reviews, including in concrete cases based on a constitutional complaint. Draft laws can be tabled by any member of the Parliament or the Government. In addition to the justice system, the People’s Ombudsperson, who is responsible for the promotion and protection of human rights and freedoms, the Information Commissioner, and Ombudsperson for Gender Equality, which fulfils the role of the equality body, play a role in the system of checks and balances.

Despite the existence of dedicated mechanisms, citizen participation remains relatively weak. The Government Legislation Office (GLO) coordinates public consultations and administers the e-Consultations portal. Most institutions rely exclusively on online consultations rather than combining several consultation methodologies.⁹⁹ Stakeholder engagement via the e-consultation platform *e-Savjetovanja*, is common and the number of consultations is increasing.¹⁰⁰ However, the consultations are often lacking in quality and the uptake of comments remains low. The Information Commissioner’s analysis shows that in 2019, complaints related to public consultations have increased.¹⁰¹ The stated reasons were that the consultation was absent, shorter than 30 days, or that either the publication of consultation plans or the report on the conducted consultation were missing. In 2019, a total of 19,543 comments was analysed (23,035 in 2018). Out of these, only 16% of comments were fully accepted, 6% partially, while 25% were duly noted, 31% rejected, and 22% were left unanswered.¹⁰² The competent bodies are obliged to conduct an online public consultation for a period of up to 30 days, and in only 40% of all cases, consultations were conducted with the full statutory time limit. The low uptake of comments was also raised by social dialogue partners, who perceive the consultations to be formalistic rather than substantive.¹⁰³

The regulatory policy has been strengthened, but challenges remain. The adoption of the Regulatory Impact Assessment Act in 2017 and the inclusion of stakeholder engagement presented progress, but shortcomings remain. Croatia ranks in the middle-third among the Member States for the use of evidence-based instruments, and in the bottom-third for

⁹⁶ According to sources, the large majority of lawsuits were decided in favour of the journalists. However, the court procedures resulted in financial consequences and a chilling effect on journalists.

⁹⁷ Most of this court cases are civil cases concerning ‘compensation claims for alleged non material damages’, and only some are criminal cases regarding the offence of ‘shaming’. Council of Europe’s Platform to promote the protection of journalism and safety of journalists.

⁹⁸ European Network of National Human Rights Institutions – The rule of law in the European Union, p. 53.

⁹⁹ Regulatory Policy in Croatia: Implementation is Key, OECD Reviews of Regulatory Reform, 2019, p. 58.

¹⁰⁰ The number of comments received and stakeholders involved in the regulation-making process is increasing. However, there is still room for improvement, especially in terms of increasing awareness of the consultation process among some groups of stakeholders.

¹⁰¹ To 10%, compared to an average 5% of the total complaints received in previous years.

¹⁰² Significantly higher than 12%, which remained unanswered in 2018.

¹⁰³ See European Commission, 2019 European Semester Country Report for Croatia, SWD(2019) [1010] final, 27.2.2019, p. 39.

regulatory quality and consulting social and economic actors during policy preparation.¹⁰⁴ While regulatory impact assessments are mainly conducted by the Ministries, the GLO provides trainings in methodology and legislative drafting. The GLO's mandate is limited to the scrutiny of impact assessments for primary legislation. As a result, subordinate regulations go unchecked. Even though local and regional authorities have significant competencies to adopt regulations, the majority lack the human resources or experience to effectively implement regulatory policy. This has resulted in significant differences in the quality of administration and regulation at local level.¹⁰⁵ The Ministry of Economy, Entrepreneurship and Crafts reviews the impacts of regulations on small and medium sized businesses by conducting an SME-test (for primary and secondary legislation).

The share of laws adopted in the Parliament under the emergency procedure has increased since 2016. While the share of such laws decreased from about 82% in 2014 to 28% in 2016, it increased again to about 56% in 2019, and 60% in 2020, also due to the COVID-19 pandemic. Out of 25 laws adopted in Q1 2020, 20 were considered as emergency laws to combat COVID-19 and most of them remain in force.¹⁰⁶ The standards for conducting public consultations apply also to the emergency procedure, and draft laws are published on *e-Savjetovanja*.

The People's Ombudsperson is responsible for the promotion and protection of human rights and freedoms, the rule of law and anti-discrimination standards. In 2008, institution of the Ombudsperson was awarded an 'A status' according to the UN Paris Principles, that was reaccredited in 2019.¹⁰⁷ Since 2013, its annual budget increased from EUR 1.2 million to EUR 1.6 million in 2019.¹⁰⁸ Over the last years, the implementation of the Ombudsperson's recommendations has increased.¹⁰⁹ The institution has been gaining in reputation based on professionalism, resistance to politicisation and good results. However, the Ombudsperson's office is lacking capacity, particularly on new powers related to whistle-blowers, and requires additional support in human resources (Ombudsperson's office received additional financial resources for this purpose). The Ombudsperson for Gender Equality performs the role of the equality body.¹¹⁰

The Government aims to support the civil society through the upcoming National Plan for Creating and Enabling Environment for the Civil Society Development 2020-2026. One of the objectives of the Plan is to further improve the legal, financial and institutional support system for the activities of civil society organisations. This would include specific

¹⁰⁴ World Bank, WGI op. cit.

¹⁰⁵ Regulatory Policy in Croatia: Implementation is Key, OECD Reviews of Regulatory Reform, 2019, p. 105.

¹⁰⁶ In order to address the COVID-19 pandemic, Croatia did not declare a state of emergency and most of the measures were adopted by the Civil Protection Headquarters on the basis of the Law on Civil Protection System amended in March 2020. Constitutional Court has been seised to review the constitutionality of these amendments and the measures of the Civil Protection Headquarters themselves, and the review is pending.

¹⁰⁷ Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), 2019, p. 2, 18.

¹⁰⁸ 2019 report of the People's Ombudsperson of Croatia, p. 167. In 2012, its mandate was extended (Law on the People's Ombudsperson, NN 76/12), and in 2014 and 2015, new regional offices were opened (Law on the People's Ombudsperson, NN 76/12) in order to cope with the increasing number of complaints (2275 resolved cases in 2013, 2013 report of the People's Ombudsperson of Croatia, p. 5; 3632 resolved cases in 2017, 2017 report of the People's Ombudsperson of Croatia, p. 11.).

¹⁰⁹ In 2016, 29 % of the recommendations from 2015 were implemented; in 2018, the share increased to 65 % of the recommendations from 2017, see 2018 report of the People's Ombudsperson of Croatia, p. 6.

¹¹⁰ To be noted that Specialised human rights bodies, such as the ombudspersons for the rights of the child and for persons with disabilities are also established. Act on the Ombudsperson for Children, NN 96/03; Act on Gender Equality, NN 116/03; Act on the Ombudsman for Persons with Disabilities, NN 107/07.

measures, activities, deadlines and authorities for implementing them, as well as sources of funds and indicators for measuring success of the implementation. The civic society space in Croatia is considered to be narrowed.¹¹¹

¹¹¹ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2020 Rule of Law report can be found at (COM website).*

Centre for Media Pluralism and Media Freedom (2020), 2020 Media pluralism monitor. <https://cmpf.eui.eu/media-pluralism-monitor/mpm-2020>.

CIVICUS (2020), Croatia country profile. <https://monitor.civicus.org/country/croatia/>

Commission staff working document – Country Report Croatia 2019 including an in-depth review on the prevention and correction of macroeconomic imbalances accompanying the document communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank and the Eurogroup 2019 European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011 {COM(2019) 150 final}.

Communication from the Commission to the European Parliament and the Council on the verification of the full application of the Schengen acquis by Croatia, COM(2019) 497 final.

Constitutional Court of Croatia, decisions of 17 December 2019, U-I-4658/2019 and U-I-4659/2019, https://narodne-novine.nn.hr/clanci/sluzbeni/2019_12_126_2550.html.

Constitutional Court of Croatia, judgment of 22 May 2018, U-III-5074/2017.

Constitutional Court of Croatia, judgment of 17 December 2019, U-I-4658/2019 and U-I-4659/2019. https://narodne-novine.nn.hr/clanci/sluzbeni/2019_12_126_2550.html.

Constitutional Court of Croatia, judgment of 24 June 2020, U-III-3053/2018.

Council of Europe, Platform to promote the protection of journalism and safety of journalists. <https://www.coe.int/en/web/media-freedom/the-platform>.

Council of Europe: Committee of Ministers (2016), Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors.

Croatia Government (2019), Anti-corruption program for majority state-owned companies 2019-2020.

Croatian Government (2016-2020), Anti-corruption action plan.

Croatian Government (2020), input for the 2020 Rule of Law Report.

Croatian Government (2020), Summary of the Report on the Implementation of the Right to Access Information Act for 2019. <https://www.pristupinfo.hr/dokumenti-i-publikacije/izvjesca-o-provedbi-zppi/>.

Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) L 95/1.

Directorate-General for Communication (2020), Flash Eurobarometer 482: businesses' attitudes towards corruption in the EU.

Directorate-General for Communication (2020), Special Eurobarometer 502: corruption.

Draft amendments to the Law on the State Judicial Council. https://www.sabor.hr/sites/default/files/uploads/sabor/2019-01-18/081446/PZ_301.pdf.

European Commission (2016, 2017, 2018, 2019, 2020), The EU Justice Scoreboard.

European Federation of Journalists (2019), Croatian journalists stage protest against abusive lawsuits. <https://europeanjournalists.org/blog/2019/03/05/croatian-journalists-stage-protest-against-abusive-lawsuits/>.

European Networks of Councils for the Judiciary (2020), contribution for the 2020 Rule of Law Report.

Global Alliance of National Human Rights Institutions – GANHRI (2019), Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) – March 2019. <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20March%202019%20-%20EN%20.pdf>.

Gong (2019), Letter to GRECO: Plenkovic undermines the fight against corruption. <https://www.gong.hr/en/good-governance/anti-corruption-policy/letter-to-greco-plenkovic-undermines-the-fight-aga/>.

GRECO (2014), Fourth evaluation round – Evaluation report on Croatia on corruption prevention in respect of members of parliament, judges and prosecutors.

GRECO (2020), Fifth evaluation round – Evaluation report on Croatia on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

Information Commissioner (2019), The report on the implementation of the Law on Access to Information for 2018 submitted to Croatian Parliament.

Information Commissioner (2020), The report on the implementation of the Law on Access to Information for 2019 submitted to Croatian Parliament. <https://www.pristupinfo.hr/dokumenti-i-publikacije/izvjesca-o-provedbi-zppi/>

Ministry of Justice (2019), data on efficiency of courts.

N1 (2020), Plenković announcing the end of immunity for members of the Government: a relic of the 1990s. <http://hr.n1info.com/Video/Info/a529417/Plenkovic-najavio-ukidanje-imuniteta-za-clanove-Vlade-To-je-reликт-devedesetih.html>.

OECD (2019), Regulatory policy in Croatia: Implementation is key.

People’s Ombudsperson of the Republic of Croatia, Annual Report for 2013, 2017, 2018 and 2019.

Recommendation for a Council Recommendation on the 2020 National Reform Programme of Croatia and delivering a Council opinion on the 2020 Convergence Programme of Croatia ST 8184/20 - COM(2020) 511 final.

Reporters without Borders, Country page: Croatia. <https://rsf.org/en/croatia>.

State Attorney’s Office (2020), Report for 2019 of the State Attorney’s Office.

Supreme Court of Croatia, Judgment of 12 February 2019, Rev 2868/2018-2, <http://hr.n1info.com/Binary/245/Odluka-Vrhovnog-suda-o-kreditima-u-CHF.pdf>.

Sustainable Governance Indicators (2019), Sustainable governance indicators platform 2019. <https://www.sgi-network.org/2019/Downloads>.

Virtual country visit to Croatia in the context of the 2020 Rule of Law Report.

World Bank, Worldwide governance indicators. <https://databank.worldbank.org/source/worldwide-governance-indicators>.

Annex II: Country visit to Croatia

The Commission services held virtual meetings in June 2020 with:

- Academic expert (Viktorija Car, PhD, Associate Professor, University of Zagreb, Faculty of Political Science, Media and Communication Department)
- Agency for Electronic Media
- Croatian Journalists' Association
- Croatian Newspaper Publishers' Association
- Gong
- Government Office for Associations
- Government Office for Legislation
- Information Commissioner
- Ministry of Foreign and European Affairs
- Ministry of Justice
- Ministry of State Administration
- Ombudswoman' Office
- State Attorney's Council
- State Attorney's Office
- State Judicial Council

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- Free Press Unlimited
- Front Line Defenders
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Press Institute
- Lifelong learning Platform
- Open Society Justice Initiative/Open Society European Policy Institute
- Reporters without Borders
- Transparency International EU