

HUMAN RIGHTS BRIEF

FREEDOM OF THE ASSOCIATION

and

HUMAN RIGHTS DEFENDERS

.....

Zagreb, April 25th, 2016



KUĆA LJUDSKIH PRAVA ZAGREB

Članica Human Rights House Network

For further information, please contact:

Human Rights House Zagreb

Selska cesta 112 c

HR-10000 Zagreb, Croatia

kontakt@kucaljudskihprava.hr

INTRODUCTION

Human Rights House Zagreb is a non-governmental organization established in 2008 by six civil society organizations [B.a.B.e. (Be Active, Be Emancipated), Center for Peace Studies, Documenta – Center for Dealing with the Past, Civic Committee for Human Rights, UPIM (Association for the Promotion of Equal Opportunities) and Svitanje], with the aim of contributing to the development of an open, pluralistic, democratic, equal and inclusive society based on full protection and promotion of the highest norms of human rights and fundamental freedoms. Through research, monitoring, advocacy and civic education, Human Rights House Zagreb builds local capacity and strongly advocates for full implementation of all global and regional human rights instruments, *inter alia*, the International Covenant on Civil and Political Rights; the International Covenant on Economical, Social and Cultural Rights; the European Convention on Human Rights and Fundamental Freedoms; and the European Social Charter (Revised).

POLITICAL CONTEXT

On January 22nd, 2016, more than three months after national parliamentary elections, the Croatian Parliament confirmed the 13th Croatian Government with Mr. Tihomir Orešković as Prime Minister. The Government was formed as a result of a coalition between the Patriotic Coalition (Domoljubna koalicija) led by HDZ, and MOST. Despite both coalition partners - HDZ and MOST- having promised the implementation of much needed structural reforms to curb corruption and increase competitiveness of the Croatian economy, the new conservative government has instead focused on undertaking a political and cultural “lustration”. As part of the “lustration”, the first moves of the government have been directed at cracking down on press freedoms¹ and freedom of association, which they have undertaken with concerning zeal and efficacy.

HOSTILITY TOWARDS HUMAN RIGHTS CIVIL SOCIETY ORGANISATIONS

— On May 3rd, 2014, more than a year and a half before the general elections, the president of the Croatian Democratic Union (HDZ), Mr. Tomislav Karamarko, incumbent First Vice President of the Croatian Government, stated² that everyone will be allowed to think whatever they want in their own house, but in public, everyone will have to respect the values that are the foundations of the Croatian State, namely: the Homeland War (1991-95), those fallen in the war, war veterans, the political doctrine of Franjo Tuđman³, and the great work of Gojko Šušak⁴. This statement paved the road for the Government’s current policy of suppressing critical voices in Croatia, including cracking down on freedom of the press⁵, and the public demonization of and hostility towards civil society organizations.

1
For further information on freedom of press, look at: Human Rights Brief on Freedom of Press, available at: www.kucaljudskihprava.hr

2
<http://www.24sata.hr/kolumne/na-sto-se-zapravo-svodi-ta-doktrina-franje-tumana-365174>

3
Franjo Tuđman, President of Croatia (1990-1999)

4
Gojko Šušak, Minister of Defense (1991-1998)

5
See footnote 1.

— Following confirmation of the new Government on January 29th, 2016, the Parliament continued with its session by discussing the 2014 Annual Report of the National Foundation for the Development of Civil Society. During the session, several MPs of the ruling Patriotic Coalition attacked the most prominent civil society organizations dealing with human rights, democratization, women rights and LGBTIQ persons, namely: Center for Peace Studies; Documenta; B.a.B.e.; Platforma 112; GONG; Iskorak; and Kontra.

— An MP of HRAST - a member of the ruling coalition - Mr. Ladislav Ilčić, stated that some people in civil society consider the non-governmental sector as big business, that they are professional and very good at what they do, writing reports, communicating with the press and collaborating internationally. However, he added, this is not what the ruling coalition and the Government should support, since the Croatian civil society is deeply sick, alienated from citizens, and in the hands of those who support the ideology of the SDP⁶ and HNS⁷. Mr. Ilčić identified GONG⁸, an NGO dealing with transparency, anti-corruption, democratization and human rights, as an example of this alienation. Furthermore, Mr. Ilčić stated that he considers GONG only 0.15 percent as a domestic organization, and 99.85 percent as “something else”. This conclusion is derived from GONG’s annual income sources, which show that GONG receives funding from foreign sources.⁹

— An MP of HDZ - a pivotal party of the ruling coalition - Mr. Josip Đakić, stated that some of the mentioned organizations acted many times against Croatian interests, and presented lies or semi-truths regarding certain events, and persons from the Homeland War. Mr. Đakić’s peer MP of HDZ, Mr. Željko Glasnović, later called out Documenta¹⁰, an NGO dealing with transitional justice, for receiving a substantial portion of their funds from abroad, thus questioning Documenta’s legitimacy as a Croatian NGO. Lastly, Mr. Đakić called for the establishment of a ‘representation of national interests’ requirement as eligibility criteria for accessing public funds.¹¹

Human Rights House Zagreb is deeply concerned with the defamation, stigmatization and hostility campaign carried out by the state officials against human rights civil society organizations. *Human rights civil society organizations are vital actors in a democratic society. The work carried out by them strives for the full fulfilment of universally established human rights and fundamental freedoms. We recall the well-established state obligations under international human rights law, recently summarized by the Organization for Security and Co-operation in Europe: “State institutions and officials must refrain from engaging in smear campaigns, negative portrayals or the stigmatization of human rights defenders and their work. This includes the negative labelling of human rights defenders, discrediting human rights work and human rights defenders or defaming them in any way. (...) States should take proactive steps to counter smear campaigns against and the stigmatization of human rights defenders, including by third parties. (...) To avoid marginalization of human rights defenders, state institutions should actively and constructively engage with human rights defenders to empower their participation, including in public debates. State institutions should recognize the relevance and importance of their contributions, even if these are critical of the authorities or challenge them.”¹²*

6
Social Democrat Party of Croatia

7
Croatian People’s Party

8
More about GONG at: <http://gong.hr/en/>

9
<http://www.tportal.hr/vijesti/hrvatska/414174/Civilno-drustvo-je-duboko-bolesno-i-podrzava-ideologiju-SDP-a-i-HNS-a.html>

10
More about Documenta at: <http://www.documenta.hr/en/home.html>

11
<http://www.tportal.hr/vijesti/hrvatska/414174/Civilno-drustvo-je-duboko-bolesno-i-podrzava-ideologiju-SDP-a-i-HNS-a.html>

12
Guidelines on the Protection of Human Rights Defenders, Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), §37-40.

RETALIATION VIA CUTTING OFF PUBLIC FUNDS FOR HUMAN RIGHTS NGOs

- On April 22nd, 2016, in a telephone session, the Government adopted the Ordinance on the Criteria for Determining Beneficiaries and Methods of Allocation of Revenue from Lottery Games for 2016¹³(the source of government funding for the development of civil society). The adoption of the Ordinance was postponed twice due to protests organized by the Initiative “For a Strong Civil Society” on April 5th¹⁴ and 19th¹⁵. The Initiative strongly objected to the proposed allocation of revenue in the Ordinance which would result in substantially decreasing the income of the National Foundation for Civil Society Development up to 70 percent for 2016, and heavily criticized the Government for not engaging in a social dialogue. The National Foundation¹⁶ is a public foundation established by an act of Parliament¹⁷, and represents crucial operational support for civil society organizations by providing institutional and project-based support to a number of organizations for human rights, promoting programs for people with disability, youth, national minorities, LGBTIQ persons, and other marginalized social groups.
- This latest Government policy can only be understood as a continuation of the verbal smear campaign, and as a hostile action against the whole civil society system built in Croatia over the last 15 years. It is clear that the Government is abusing its powers for retaliation against the above-mentioned human rights groups because of their criticism of the Government’s human rights and related policies.
- The procedure of the Ordinance adoption was vastly irregular. Following public protests and heavy criticisms for the complete lack of dialogue with relevant social partners over the change in policy, the Government finally decided to meet with the Committee on the Development of Civil Society, the governmental advisory body, to discuss the proposed policy. The Committee meeting took place on April 22nd, 2016 with deliberation and consultations over the content of the proposed Ordinance. However, while the Committee members and government officials discussed the disputed allocation of the lottery revenue, the Government held a special “telephone session” adopting the Ordinance, with not only complete disregard for the Committee meeting taking place at the very same time, but one could argue with intentional disrespect for that Committee.
- In protest, the president of the Committee, Mrs. Željka Leljak Gracin, and five other members, unconditionally resigned. They have stated that with this act, the Government abolished the basic principles of the development of civil society. Moreover, on a symbolic level, the Government abolished showed its contempt for democratic institutions based on procedures and dialogue between stakeholders.¹⁸

Human Rights House Zagreb strongly condemns Government’s crackdown on civil society organizations and freedom of association, circumvention of a social dialogue, and is deeply concerned with the Government’s abuse of power for the sake of retaliation against human rights groups vocally critical of its policies. Under

13
<https://vlada.gov.hr/sjednice/16-telefonska-sjednica-vlade-republike-hrvatske/18872>

14
<http://www.libela.org/vijesti/7314-civilno-drustvo-protiv-smanjivanja-sredstava-za-najranjivije-skupine/>

15
<http://m.tportal.hr/425038/Rezanje-sredstava-Nacionalnoj-zakladi-urusit-ce-civilno-drustvo.html>

16
More about the National Foundation at: <http://zaklada.civilnodrustvo.hr/frontpage>

17
Act on National Foundation on Civil Society Development, available at: <http://digured.srce.hr/arhiva/263/33319/037303.pdf>

18
<http://www.forum.tm/vijesti/prevarantska-vlada-izigrala-svoje-savjetodavno-tijelo-4423>

international human rights law, States are obliged to provide a safe and enabling environment for human rights civil society organizations, and to design policies that will support and encourage the protection and promotion of universal human rights and fundamental freedoms. We recall the principles set forth in the Council of Europe Committee of Ministers' Recommendation on the Legal Status of Non-Governmental Organizations in Europe: "Governmental and quasi-governmental mechanisms at all levels should ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions. (...) NGOs should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation."¹⁹ Further, "States should assist and facilitate NGO efforts to seek and obtain funds for human rights work while not interfering with their independence. They should, to the extent possible, make funds available to support independent NGOs. (...) In their human rights and development policies, states should ensure that funding for NGOs is accessible without discrimination and prejudice to the activity of the organization, its geographical focus and the location of the human rights activity. States should also (...) refrain from any arbitrary or unlawful acts that deprive NGOs of these resources (...) Furthermore, all public authorities and officials should fully respect the independence of NGOs and refrain from using government funding or other financial or nonfinancial means to influence the work of NGOs and the broader human rights movement. State funding schemes should be transparent, fair and accessible on an equal basis to all human rights defenders and their NGOs."²⁰

CONCLUSION

.....

Human Rights House Zagreb strongly condemns the retaliatory actions of the Croatian Government, and calls for the immediate cessation of the negative public portrayals, smear campaigns, and stigmatizations of human rights defenders and organizations; and the hostile attempts to disintegrate the civil society sector. An enabling and safe environment for human rights civil society organizations must be immediately reinstated by revoking the adopted Ordinance, and ensuring full and genuine Government engagement in a social dialogue with all the relevant civil society stakeholder. The Government at the highest levels must decisively condemn all the hostilities towards human rights defenders and organizations coming from certain state officials.

19
CM/Rec(2007)14 - Committee of Ministers' Recommendation on the Legal Status of Non-Governmental Organizations in Europe, §76 and 77.

20
Guidelines on the Protection of Human Rights Defenders, Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), §70-72.



Kuća ljudskih prava Zagreb djeluje kao Centar znanja za društveni razvoj u području zaštite i promicanja ljudskih prava.



Izdavanje ove publikacije omogućeno je financijskom podrškom Nacionalne zaklade za razvoj civilnog društva. Sadržaj ove publikacije isključiva je odgovornost autora i nužno ne izražava stajalište Nacionalne zaklade.