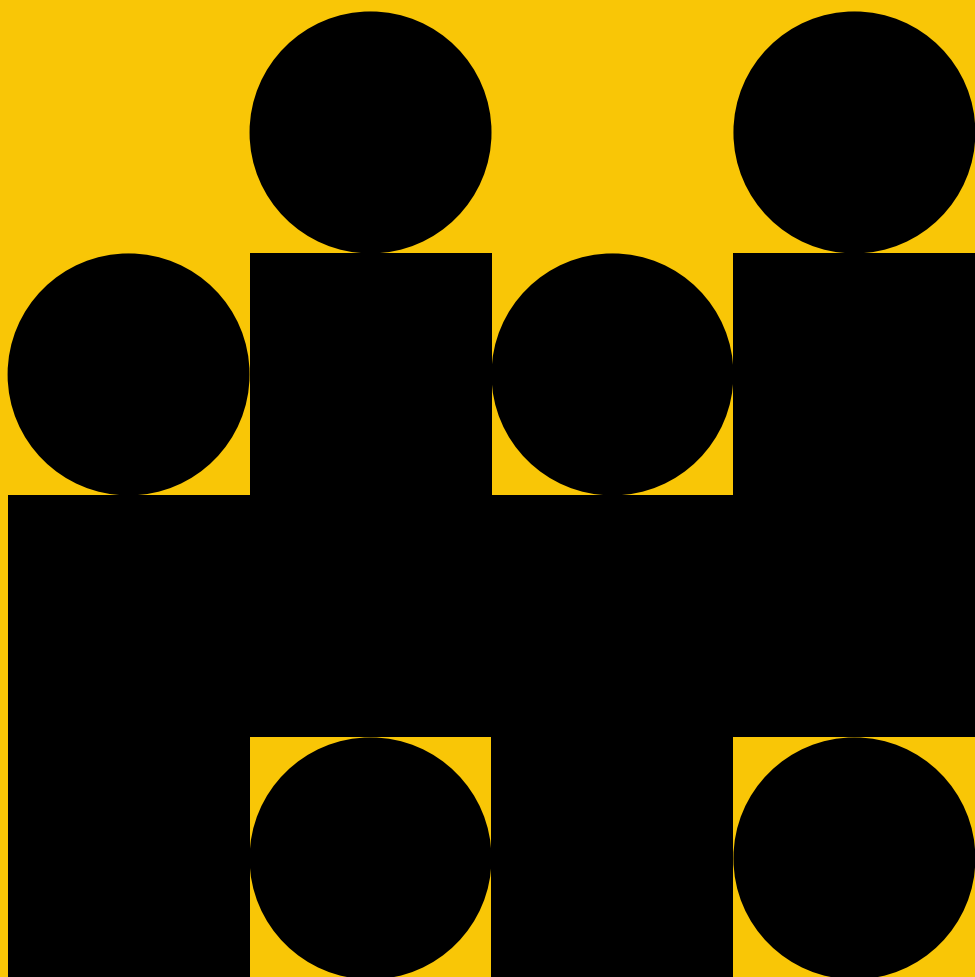


THEMATIC REPORT

HUMAN RIGHTS DEFENDERS IN CROATIA OBSTACLES AND CHALLENGES



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Human Rights House Zagreb is a human rights organisation established in 2008 as a network of civil society organisations with the goal of protecting and promoting human rights and fundamental freedoms. The HRH's vision is to build a democratic, pluralist and inclusive society founded upon the values of human rights, the rule of law, social justice and solidarity. The HRH contributes to the protection, promotion, development and advancing of human rights and fundamental freedoms through research, monitoring, public advocacy and education. By publishing annual human rights reviews, thematic reports and statements, we help to create better laws and public policies.



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INTRODUCTION

In 2018 we mark the anniversary of the adoption of two international documents of significance for human rights: the 70th anniversary of the UN's Universal Declaration of Human Rights and the 20th anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,¹ which the UN General Assembly adopted in 1998. The fact that the Universal Declaration is the document that had for the first time in the history of humankind codified the universally recognised and inalienable rights of all people regardless of all kinds of differences says enough about its importance. For 70 years, the Universal Declaration has protected our fundamental human rights and civil liberties, inspiring individuals, groups and communities around the world to make their societies more just, inclusive and democratic.

The Declaration on Human Rights Defenders was unanimously adopted by the UN General Assembly to mark the "golden" 50th anniversary of the Universal Declaration. Despite the occasional nature of its adoption, the Declaration has great significance to the international human rights movement and human rights defenders working around the world to improve the lives and human dignity of all people, especially those individuals who are most threatened and marginalised. This declaration marked the first time that states have acknowledged and recognised the key role individuals play in protecting and advocating human rights so that they could ultimately become reality for all people throughout the world.

¹ UN General Assembly (1988), The Declaration on Human Rights Defenders

In addition to recognising the importance of human rights defenders, the Declaration also clearly identifies the challenges, obstacles and perils they encounter in their everyday work on protecting and promoting human rights. The global context clearly shows that over the past decade, the situation for human rights defenders has deteriorated, even as the international norms for their protection became stronger, that is, "the more threats and restrictions, the greater the need for a response by the international community, in the shape of standards and principles for the protection of human rights defenders."²

Strengthening international standards itself is not enough to enable safe and stimulating environment for the work of human rights defenders and their organisations. The Declaration clearly calls on all states and all social, political, economic and religious actors to publicly support all activities to protect and promote human rights and to publicly condemn any form of delegitimisation of, and attacks on human rights defenders.

The Declaration and other international documents prescribe 16 standards they must implement in their legislation and public policies in order to secure the prerequisites for creating and erecting an stimulating environment for the work of human rights defenders and CSOs. With the aim of promoting these standards amongst human rights defenders and public authorities, the Human Rights House Foundation has produced a publication, the Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work, which the Human Rights House Zagreb has translated into Croatian.

² Human Rights House Foundation (2018), Prava branitelja ljudskih prava – načela i standardi zaštite i osnaživanja rada na ljudskim pravima [The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work], p. 3.

This thematic report on the most significant challenges and obstacles faced by certain groups of human rights defenders in Croatia was compiled in order to gain an insight into the conditions under which they are working, and to serve as the groundwork for constructive dialogue with public authorities and other social stakeholders, with the objective of continuing to build a stimulating environment for protecting and promoting human rights.

OVERVIEW OF THE CONDUCTED STUDY

In order to depict the problems and challenges faced by human rights defenders in their work, we conducted a qualitative study, that is, 11 in-depth interviews, with civil society organisations dedicated to the protection and promotion of rights in various fields, that is, refugees', national minorities', women's, LGBTIQ persons' and environmental rights, as well as with organisations engaged in dealing with the past and transitional justice. The interview protocol was based on the standards of protection cited in the handbook published by the Human Rights House Foundation, which lists the principles and standards empowering work on protecting and advocating human rights. It is a tool to allow human rights defenders to disseminate standards of protection at the national level, cooperate with the authorities and urge them to take responsibility for the compliance with the international commitments accepted in the country. The standards contained in the handbook were developed to reflect the substance of various resolutions concerning human rights defenders and their work, such as the UN Human Rights Defenders Declaration, which this year has marked its 20 anniversary.

The standards are the following:

- Public support for human rights defenders
- Repealing the criminalisation of human rights defenders
- Abolishing restrictions on funding non-governmental organisations
- Respecting non-governmental organisations' independence
- Avoiding legal restrictions and restrictions in the process of registering
- Ending all forms of reprisals
- Abolishing arbitrary arrest and detention
- Acknowledging dissenting views
- Ensuring free access to the media
- Enabling peaceful protests

- Fighting against impunity, showing accountability
- Uphold responsibility of business
- Protecting women human rights defenders
- Protecting human rights lawyers
- Protecting defenders of minorities' human rights
- Protecting human rights defenders' family members

In this study, the aforementioned standards have been adapted to the national context, with a focus on those standards with whose full implementation Croatia has had difficulties, recorded in existing reports – for instance, the Human Rights House Zagreb report, Human Rights in Croatia: an Overview of 2017 and the Ombudswoman's Report. The areas in question are the following: public perception of human rights defenders; criminalisation of the work of CSOs; participation in social and political life; the media and promoting human rights; and the normative framework and funding. The problems in the highlighted areas are backed up by quotes from the interviewed representatives of individual organisations. In selecting the organisations for the research sample we sought to choose those CSOs active in those spheres of social life that have in recent years been the focus of sociological, political and economic discussions. The interviews were recorded with the interviewees' consent and transcribed, and the transcripts authorised.

A list of the organisations that took part in the study:

- Are You Syrious?
- B.a.B.e – Be Active. Be Emancipated.
- Centre for Peace Studies
- Documenta – Centre for Dealing with the Past
- Rainbow Families
- Faktiv
- Youth Initiative for Human Rights
- Right to the City
- The Serb National Council
- Zagreb Pride
- Green Action

In addition to statements by the representatives of civil society organisations who participated in the study, we also consulted reports and research by international independent bodies and agencies such as the European Union Agency for Fundamental Rights (FRA), the European Commission against Racism and Intolerance (ECRI), the Joint International Mission of journalists' associations and freedom of expression organisations, as well as Human Rights House publications, as relevant sources.

KEY PROBLEMS

Public perception of human rights defenders

- A lack of support on the part of decision-makers for the work of human rights defenders, which would strengthen their activities to protect and advocate human rights, as well as the social understanding of their role.
- Human rights defenders are exposed to discrediting and delegitimisation in the public, especially by ultra-conservative and populist politicians and media close to the right-wing of the political spectrum.
- Human rights defenders are exposed to verbal threats and intimidation, while organisations dealing with refugees' rights face additional attempts to intimidate them by destroying their equipment and workspace.
- Absence of public condemnation of threats and intimidation against human rights defenders, thus failing to send a clear message that violence is unacceptable.

Criminalisation of the work of CSOs

- Broad interpretation of legislation seeks to criminalise the work of human rights defenders dealing with the rights of refugees, whilst they are baselessly brought into connection with people smugglers and criminal activities.
- While accompanying asylum seekers to police stations, human rights defenders dealing with refugees' rights face unwarranted questioning and detention in police stations that can last for hours.
- Accusations of criminal activities against human rights defenders are tendentiously reported in the media, resulting in damage to their reputation and discouraging future volunteers from joining them.
- Human rights defenders engaged on environmental issues face pressure and legal actions by private investors due to their attempts to protect the public interest.

Participation in social and political life

- Communication with public authorities through participation in working groups and public consultations on

proposed legislation and public policies is obstructed, precluding the full exercise of the right to civic participation.

- The crumbling of inter-sectoral cooperation between human rights defenders engaged on refugees' rights and the relevant institutions is worrying.
- Adopting restrictive municipal regulations, commercialisation of public space, but also attempts to induce registering public gatherings as commercial events, have a negative influence on the ability to exercise one's right to freedom of assembly.
- Counter-assemblies have an indirect negative impact on Serb national minority human rights defenders' exercise of the right to free and peaceful public assembly.

The media and promoting human rights

- Over the past three years, a narrowing of media freedom, a trend of emergence of fake news and hate speech have been observed in Croatia, negatively reflecting on the freedom of expression and contributing to the creation of an unsafe environment for the work of human rights defenders.
- The issues of human rights violations are not satisfactorily represented in the mainstream media and the prime time slots on the public media service.
- Non-profit and independent media have a key role in the protection and promotion of human rights, which they have ever greater difficulties fulfilling due to the absence of sustainable public financing.

Normative framework and funding

- Delays in announcing calls for applications for grants prevent CSOs from long-term planning of their programmes and activities.
- CSOs' functioning is encumbered by growing administrative requirements, taking up a large part of their human and financial resources at the expense of the quality of design and implementation of programme activities.

- Short-term forms of funding CSO projects negatively affect the work of human rights organisations engaged in long-term advocacy and watchdog activities.
- Horizontal cooperation between CSOs and public authorities on the grant programming process is unsatisfactory, which results in the discrepancy between financing programmes and the actual needs of the society.
- More appropriate programming of national public sources for co-financing European projects implemented by human rights defenders' organisations is needed.
- Due to underdeveloped civic and entrepreneurial philanthropy, a stimulating social, administrative and taxation environment, as well as public policies to encourage foundations need to be created in Croatia.

PUBLIC PERCEPTION OF HUMAN RIGHTS DEFENDERS

*Politicians, business, media and religious actors need to "pay public respect to the important and legitimate role of human rights defenders in promoting human rights, democracy and the rule of law", by "public appearances, policies or legislation... as well as by publicly condemning all instances of violence and discrimination against human rights defenders."*³

*In cases of violence and discrimination, "decision-makers ... should make a clear stand rejecting such practice."*⁴

*Politicians and state officials should avoid stigmatising individuals with different views, and prevent attacks on human rights defenders expressing different opinions, which involves conducting effective investigations where such crimes are committed.*⁵

Human rights defenders, whichever social domain they may be active in, are the unavoidable "guardians" of democratic structures and the mobilising force of any given society – whether demanding decision-makers to respect and observe the national and international regulations when it comes to human rights by advocacy and watchdog activities; or supporting citizens in fighting for and defending their human rights. In order for human rights defenders to be able to act efficiently and in a safe environment, it is important that political and social actors and decision-makers recognise their work protecting and promoting human rights and publicly support it.

Public support by decision-makers

Decision-makers' public support is precisely that which can largely influence the formation of attitudes in the wider public concerning the activities of human rights defenders and contribute to creating a stimulating environment for work on protecting and promoting human rights. However, as reported by the CSOs that took part in this study, although decision-makers generally recognise their work, continu-

³ Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 7.

⁴ Ibid.

⁵ Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 21.

al and ongoing public support goes missing. Public support for the work of human rights defenders is often merely declaratory.

I'd say that the support is mostly opportunistic. When certain dates are marked, the work of an association that actually works with victims of violence for 365 days a year sometimes gets recognised. Politicians may then take notice of issues we address and the association's work.

B.a.B.e.

*It seems that all our "safe" activities, activities with children, activities of a humanitarian character, meet with, if not universal, than broad support, while our public advocacy activities focussed on exposing problems, especially violence on the borders, meets with no support, especially not by right-wing, conservative, nationalist parties and individuals. **Are You Syrious?***

*As far as high politics are concerned, members of parliament, they took two years to begin recognising what we do in the context of human rights violations in terms of advocacy, but it seems to me that those in top positions in politics are still unaware how much work on integration is in fact being done by our organisation's volunteers, instead of institutions who have staff paid to do it. There is an interesting paradox, which is that in fact there is a lot more recognition of the issues we deal with, including the criminalisation of solidarity and pressure on human rights defenders, they are recognised more by Members of the European Parliament and by international bodies, than by local institutions. **Are You Syrious***

[Support from politicians] depends on whether they are in power or in opposition, that is, whether they are governing or not. If they are in opposition, they will be more cooperative, more willing to support certain amendments, that is, to support what we do. On the other hand, when they are in government, they view this as a critique directed at them, at work and policies, and they are less inclined to support. In defending their own political position, there often comes to delegitimisation and attempts to portray critiques as exaggerations that are not founded in reality or as misunderstanding the real situation.

Centre for Peace Studies

Social Delegitimisation

The antagonism of a segment of society towards human rights defenders in Croatia has been "traditionally" constant since the 1990s, when work on protecting and promoting human rights was portrayed as anti-state. Over the past several years, the polarisation of the society and the effects of the economic crisis have strongly influenced the rise in the negative perception of human rights defenders. In such a context, work on the human rights of marginalised or threatened social groups such as LGBTIQ persons, refugees and asylum seekers, members of national minorities or victims of domestic or gender-based violence is often discredited by parts of the public and portrayed as opposed to traditional values, national interest and religious beliefs of the majority. Especially concerning are the latest examples of social delegitimisation of defenders of refugees' human rights on the part of decision-makers.

*As far as the [Interior] Minister is specifically concerned, that is, the person who ought to be the highest authority beside the prime minister and president on the question of security, but also the question of the legality of someone's work, we are faced with systematic spin and defamation placing us in the same context as smugglers, claiming that volunteers hand out cash to refugees and instruct them how to cross borders, which is completely untrue, at least of our volunteers. We are charged with a lot that is incorrect and illegal, told that we will threaten Croatia's accession to the Schengen area, all kinds of things that might trigger the rage of an average citizen who is uninformed about our work are being very much used against us. **Are You Syrious?***

*I really believe that when the Internal Affairs Minister publicly states that the organisation deals in smuggling or a similar kind of activity, this is very dangerous. So, I think such arbitrary and unfounded statements are dangerous and concerning, because I wonder what's next, what can someone just state without any political or other kind of accountability. (...) If defamation comes from the mouth of the Minister, with nothing to back it up... This entire witch-hunt that emerged through the media is not directed at us, but at people we are working with, and it indirectly creates insecurity and danger. If people have it in for migrants, then those helping them are necessarily a problem. Because of this we have registered an increased amount of hate-mail and hateful comments in our inbox, and I haven't noticed that anything much is being done about this. It seems to me that this is being tolerated as long as it doesn't cross the line. **Centre for Peace Studies***

The negative portrayal of human rights defenders is especially pronounced in extreme right media and ultra-conservative and populist politicians. Human rights defenders are additionally delegitimised by labelling them as "enemies of the state, spenders of public money, Yugoslavian nostalgics and enemies of Croatia."⁶

*As social circumstances changed – especially in recent years, when the concept of gender began to acquire extremely negative associations in the public – women's human rights organisations became objects of hate for a segment of the public. Right-wing portals sought to create a media image of CSOs as organisations cooperating with secret services, perceived as Soros' mercenaries and traitors undermining Christian values. This delegitimation takes the form of saying we live off tax-payer's money, trying to brand us as great idlers, nostalgic of former regimes and enemies of all that is Croatian. Every progressive idea is sought to be turned on its head and represented as a distortion of all Croatian values and customs. **B.a.B.e.***

We are already accustomed to there being this army of trolls commenting on every statement we make, calling us foreign mercenaries, rapists' helpers and so on.

Are You Syrious?

Threats Against and Intimidation of Human Rights Defenders

The organisations have highlighted a large number of verbal threats and intimidation they receive, especially through their websites and social networks. Organisations dealing with issues that are deeply politicised in the Croatian society, such as refugees' and asylum seekers' rights, and transitional justice and dealing with the past, are particularly exposed. In such a negative environment, cases of threats and intimidation directed towards human rights defenders by prominent public figures and members of political parties are especially concerning.

*We only report the most dangerous attacks; this means that we don't report the majority of what we receive by mail, phone or in verbal assaults on the street. For instance, we reported it to the police when the so-called Ethical Court [Etičko Sudište] sent me an indictment by mail. I was the only one among the "indicted" who wasn't either an active politician or a former president, and, unlike others, didn't have the security of protection measures. I didn't believe that such protection measures would be of use to me after the threats, so I declined when offered them by the police. I wanted to warn of the real problem, which is the threat of expulsion from the country, as, alongside the insults and lies cited in the "indictment" of the "court", there was also the proposal that I be declared a persona non grata. This is dangerous as, in my opinion, no person should find themselves declared undesirable in Croatia, especially not as a result of championing human rights, recognising the suffering of all victims and the right of the new generations to learn history that is based in fact. **Documenta***

We received death threats on Facebook by then-member of the CDU [Croatian Democratic Union] Hrvoje Marušić, who directly threatened us due to our legitimate and legal action calling on the Government to apologise to the victims of crimes committed during and after the military operation "Storm". He was convicted of a misdemeanour and fined 5,000 Kuna. At the time, the CDU distanced

itself on Twitter from his attitude and opinion without a clear and sharp condemnation of his act, even though later on, a process to expel him from the party was initiated. He left of his own accord and is now a member of the CRP [Croatian Party of Rights]. **Youth Initiative for Human Rights**

Certain groups of attacks were tied to specific social phenomena, such as the war veterans' protests in the tent in Savska street. Because of our advocacy of the rights of all civilian war victims, we were very often the target during those tent protests in Savska. This photograph, with its inappropriate caption, was on display when the President, Kolinda Grabar Kitarović, came to visit. So it was quite normal to display my photograph as a target without anyone reacting. I was also attacked by name during the presidential candidates' debate, to which there was no reaction on the part of the anchor in the TV studio.

Documenta

Human rights defenders engaged on refugees' rights and warning of violence on border crossings are currently exposed to serious threats and destruction of their equipment and spaces where they work, whose aim is to scare them off, to discourage their work and send them a message that they are unwelcome in this society.

*In the past month and a half our premises were physically attacked, windows broken, offensive graffiti written, our van destroyed. Now, the latest thing, I reported a death threat by a retired civil servant. Within four days, that person got a restraining order, but only not to approach me, although they actually should also have been banned from approaching both Porin and the AYS office, as well as my colleague and my family. This has serious repercussions on our work – we had to reorganise our work in the integration centre. Now that night falls earlier and we all feel slightly insecure, we want to leave in a group, not to leave anyone behind alone. We are mostly women there, the police advised us to buy pepper spray, which we did. We look over our shoulders, we shortened our working hours, this all has significant repercussions. **Are You Serious?***

Absence of Public Condemnation of Threats

The absence of a clear and unambiguous condemnation, that is, missing the opportunity to publicly and directly condemn all threats and slander against human rights defenders, sends an indirect message to the public that such behaviour is approved of. Instead of taking responsibility for stopping threats and pressure against human rights defenders and instead of legitimising their work, with their non-reaction, the decision-makers are missing the opportunity to build an open and democratic society based on respect for human rights, without violence and discrimination.

I'd say that this is a land of silence. When the worst possible words, hate speech, are used to attack people from human rights organisations, journalists, writers, film-makers, you won't hear reactions from the highest representatives of Government institutions. An appropriate reaction by the executive and legislative powers would be to promptly go public and call thematic sessions of parliamentary committees, and by the judiciary to prosecute incitement to violence both as a misdemeanour and a criminal offence. Recently, the Ombudswoman also warned about the relativisation of the Second World War genocide and the Holocaust, as well as belittling Fascism, to which government institutions have remained silent.

Documenta

*I'd say that politicians have failed to react, or reacted very mildly. When the Novosti magazine was being burned in the centre of Zagreb, and when right-wing radicals called on the government to stop financing Novosti, whose editorial board was receiving death threats, Prime Minister Plenković gave very neutral comments on the event, barely condemning it at all. I mean, it's been a while that human rights in Croatia have been discussed like fruit in a market – they've been traded with ever since the marriage referendum, all the way to the protection of women from violence, which is also something that was allowed to drag on, and now with the migrants. **B.a.B.e.***

CRIMINALISATION OF THE WORK OF CSOs

States must ensure that "the promotion and the protection of human rights are not criminalised," and that human rights defenders "are not prevented from enjoying universal human rights owing to their work." Everyone's right to enjoy universal human rights includes the right to defend such rights without undue hindrance.⁷

"Everyone shall respect the human rights of others." Human rights defenders as any other human being have the right to enjoy universal human rights and to associate with others in doing so. This right should not be jeopardised or undermined solely due to the nature of their work. Legislation affecting human rights defenders must be "clearly defined, determinable, and non-retroactive." Limitations placed on human rights defenders must be "lawful, proportionate, non-discriminatory and necessary."⁸

"Criminalisation of human rights defenders in this context is any attempt to discredit, undermine, sabotage, or impede their work through the use of the legal system or the manipulation of the public discourse."⁹ Limiting human rights defenders' rights by unjustifiably invoking the protection of national security, public health, others' rights etc. represents an abuse of the judiciary, used to intimidate human rights defenders and prevent them from doing their work. Instances of such abuse can be seen in criminal charges of defamation, abuse of anti-terrorist regulations, restrictive measures against public gatherings and protest, criminalisation of unauthorised work to protect and advocate human rights etc.

Criminalisation of Solidarity and the Work of CSOs Dedicated to the Protection of the Human Rights of Refugees

In the context of criminalisation of the work of defenders of the human rights of refugees and persons seeking international protection, there was cause for concern in the announced amendments to the Aliens Act, which sought to criminalise providing humanitarian aid to

7 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 9.

8 Ibid.

9 Ibid.

this threatened group in Croatia. The attempt to criminalise the work of volunteers helping refugees, by initiating judicial proceedings demanding draconian fines and prison sentences, is also particularly concerning.

There were attempts to criminalise any form of providing humanitarian assistance, but ultimately we successfully lobbied to keep the paragraph that would allow approaching people without papers in cases of humanitarian assistance. Likewise, the Croatian police very broadly interpret the provision prohibiting any assistance in passing through our country. And so they seek to apply the provision that is perfectly clearly here to prevent smugglers from transporting people for material gain from point A to point B to volunteers stopped by potential asylum seekers outside Porin or our offices and asked for help by accompanying them to the police station. It seems that it is now beginning to be interpreted as assisting in transiting the Croatian territory, and can thus be used to criminalise.

Are You Syrious?

We had a very concrete court case where the MIA falsely accused our volunteer of alleged assistance, with no legal grounding or concrete evidence, and, of all cases, in the case of the Hussiny family, whose 6-year-old daughter had perished several months before, her death a direct consequence of the illegal expulsion of her and her family from the country. (...) The first instance ruling read that (...) it was established beyond doubt that at the time the family made contact with our organisation, they were inside RC territory, that it was established beyond doubt that the volunteer never made direct contact with the family, that it was established beyond doubt that he had no intention to assist in any illegal activities, but he was nevertheless convicted for inadvertent negligence. This is the phrase the court used. They argued that he should have assumed that the family may not have been in Croatia, even though he knew they were. Such legal gymnastics suggest that rule of law in Croatia is at the very least threatened, and it is important to mention that actually, in the charges against our volunteer, the MIA sought a 45,000 Euro fine, the maximum prison sentence and prohibition of our association's work, although we were not party to the proceedings. This is a very open message that we are unwanted in this context of helping people wishing to seek asylum. Ultimately, he was only sentenced to a fine as there were no legal grounds for prohibiting our association's work.

Are You Syrious?

Attempts to intimidate and limit the work of organisations protecting the human rights of refugees and asylum seekers are also manifest in the unexplained hours-long detentions and questioning of their volunteers, as well as employees, when accompanying asylum seekers to police stations.

On several occasions, our volunteers encountered serious threats by MIA officials, threats of criminal prosecution, 10-hour-long illegal detention at police stations in very unpleasant conditions, where they would be screamed at, told that they are doing dangerous work and might get hurt, after which they'd regularly be released with no misdemeanour or criminal charges being filed against them, and not even a document with which they could prove they had been detained at a police station for so long.

Are You Syrious?

What is unpleasant is when some of my colleagues or volunteers went to accompany asylum seekers in applying for asylum, the police would either detain them for a very long time, or tell them that what they were doing was not OK. Before, they'd say, before the latest amendments to the Aliens Act, that they can barely wait for the Act to be adopted and assistance to be criminalised so that we could also be prosecuted. The last time a colleague escorted a large family, a police officer told her that he won't give them a chance to ask for asylum until they have conducted a criminal investigation of her and ascertain whether she is involved in smuggling. After two-three hours at the police station, they finally decided against criminally investigating her, and only then allowed the people to ask for asylum. This is a clear show of strength and intimidation.

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Even if our volunteers accompanied someone wishing to seek asylum, who mistakenly contacted us rather than the police, for the 8-10 hours they would usually be held, police inspectors would be preoccupied with our volunteers, not the people wishing to seek asylum. This is not only an attempt to intimidate, but an attempt to find any kind of grounds for charges to be brought against us. We had cases where volunteers were kept in conditions where they weren't sure whether they had been arrested or not, and why they were being held at all. Not only those volunteers who had come to accompany asylum seekers, but also volunteers who had been stopped in the middle of the

street, taken to a police station and held there for 8 hours and released with the claim that there had been a mistake. Certainly a lot of threats, a lot of deprivation of freedom of movement, a lot of non-reacting to appeals to protect the volunteers themselves from police officers, kind of gives the picture of it being somehow systematic, the attempt to discourage us from assisting people. **Are You Syrious?**

The Public and the Criminalisation of Human Rights Defenders

In addition to direct negative consequences that criminalisation has on the work of CSOs, these actions serve as a means of publicly delegitimising and discrediting human rights defenders' work. Organisations have warned that actions by the police and first-instance legal proceedings are used as arguments in the public debate in a highly prejudicial manner, to the detriment of human rights defenders. This results in damage to the public reputation of the organisations and a chilling effect on citizens' involvement as volunteers in the organisations' activities.

The increase in outbursts of citizens' hatred was preceded by an attempt by the Minister himself and the MIA to publicly criminalise our work, especially considering that over the past two months these eruptions of hate greatly gained in intensity, it seems to us, in direct correlation with the pretty forceful anti-refugee propaganda, fake news propaganda spreading through social networks and over very reputable media in Croatia. (...) This is an additional argument for the Minister [the volunteer's conviction], who now uses the fact that our volunteer was convicted in the first instance in every response to the media, not quoting the ruling but only what was in the charges against him, which is that our volunteer was convicted for using his mobile phone to signal how to cross the border, even though precisely this charge was dismissed in the trial. So this is very blatant manipulation. The ruling wasn't published on the court's website, but it was published by Hina [Croatian News Agency] within two hours, and carried by all web portals, stating that an AYS volunteer was accused of smuggling because he flashed his headlights at refugees, which is not what the ruling said. (...) Of course

*this affects our reputation and how we are viewed by our associates and the public. **Are You Syrious?***

*Knowing that AYS relies on its volunteers and that the volunteers are what makes it recognisable, if you punish a volunteer, it is a question whether people will ask to volunteer, so you're threatening their work. Also, you put obstacles in front of them, they must deal with other stuff. **Centre for Peace Studies***

The pressure the state puts on organisations engaged in human rights protection also reflects directly on other human rights defenders dealing with marginalised and vulnerable social groups and issues that are highly politicised in Croatian society. Organisations that have for years been active in the protection and promotion of human rights have expressed an apprehension that such conduct represents a dangerous precedent and a turn that can negatively reflect on the effective enjoyment of the right to freedom of association and the right to freedom of assembly.

*This is a new paradigm, these are completely new conditions under which civil society organisations work, significantly more difficult and dangerous than before, and they simply change the structure within which civil society operates. Before it was ignoring and impeding, now it is direct assault, and by the state no less. **Faktiv***

*We are not in the situation which our colleagues from organisations advocating for asylum seekers' rights are in right now. (...) I am shocked by how this has developed, but I see that there is actually the problem of the EU allowing this kind of development [of police conduct]. I believe that this is really connected to the fact that Europe has been changing course, transforming into a fortress, sending messages that borders must be protected in any way possible, and that this is the reason why the police is adopting this form of conduct. So it is not only a matter of our internal inspiration, but that events are being followed at EU level, feeling out how far and where to it's possible to go. **Documenta***

With this turn in police conduct towards organisations working with asylum seekers... it should be very painstakingly monitored how things develop in police conduct with regard to peaceful protests. Although the police in Croatia did undergo a process of democratisation, one should always be on guard, especially in times of regression. So, they underwent it, they achieved something on this path and it is now the whole system that either supports or doesn't support something, from the Police Academy to the Ministry, and when they are tolerated or actually when the police acts so restrictively as it is acting now in cases of organisations working with asylum seekers, then there arises concern as to what's going to happen with protests. (...) But I wouldn't suggest a need to change the laws, but a need to very carefully monitor trends. The key question is how are things developing, what direction they are taking. Now that we have a very negative trend, now that the police present the work of organisations working with asylum seekers to the public in a totally different light, will something like this start to happen in the sphere of peaceful protest as well? So I believe that very careful monitoring is necessary here, as well as quick reactions precisely on the part of the Human Rights House, which is anyway part of our mission.

Documenta

Criminalisation of Environmental CSOs' Activities

A characteristic problem encountered by human rights defenders dedicated to protecting the environment is criminalisation on the part of private investors. That is to say, the provision in the Environmental Protection Act determining that private investors have the right to sue individuals who delay the beginning of construction by drawing attention to the harmfulness of a certain investment does not merely imperil the right to public participation itself, but the very purpose of the work of environmental organisations, which, according to the Aarhus Convention, have the right to appeal to people to think critically. Investors' legal actions against environmental organisations, or SLAPP (strategic lawsuit against

public participation) aim to censor, intimidate and silence human rights defenders engaged on environmental protection, who protect the public interest and the environment. Such a SLAPP proceedings were initiated against Green Action in the case of the project to build a golf resort on the Srđ hill above Dubrovnik. The private investor initiated the criminal proceedings for an offence against honour and reputation and a civil action for damages, in which the claims add up to around 200,000 Kuna (not including interest and court costs). At the same time, the investor petitioned the Commercial Court to bring an injunction prohibiting Green Action from activist work and the right to freedom of expression for the duration of the realisation of the Srđ project.¹⁰

*SLAPP is what's happening to us now. You bring a problem out into the public, that a certain project or law is controversial, which is what you exist for, but they simply want to force you to do something else. Very many states in the US and in Europe have anti-SLAPP mechanisms, according to which a non-governmental organisation, or anyone working with the environment, cannot be punished, prosecuted or harassed for doing their job. In Croatia not only is there no such anti-SLAPP mechanism, but in the Environmental Protection Act of all places there is a provision saying that the investor has the right to sue the person that complained and brought an action, thus delaying his process of construction. He has the right to institute criminal proceedings, to prove that the right to participation has been abused. For the past 10 years, maybe more, we have been writing comments about this provision of the Act, which is unnecessary. We have the Criminal Code, the Civil Obligations Act, under which they can sue you if you caused someone damage. We believe, with which law professors and foreign experts agree, that the purpose of this provision of the Environmental Protection Act is to scare people away from participating in various environmental proceedings, especially from initiating certain legal actions. **Green Action***

¹⁰ Human Rights House Zagreb (2018), Human Rights in Croatia: Overview of 2017, p. 15.

PARTICIPATION IN SOCIAL AND POLITICAL LIFE

Human rights defenders must feel secure, protected, and empowered to peacefully express their views, without pressure, self-censorship, or fear of reprisals. This means creating an environment in which a vibrant and strong civil society can flourish.¹¹

The manifestation of dissenting views can take different forms. It can be through peaceful protests or media, during public events, or through calling for boycotts, such as of an electoral process or a referendum. States must comply with both negative and positive obligations. That is, refraining from interfering with the right to express dissenting views, and adopting measures to protect the expression of views in a peaceful way.¹²

States should ensure that "human rights defenders can perform their important role in the context of peaceful protests." To do so, they should facilitate peaceful protests by "providing protestors with access to public space and protecting them, without discrimination, where necessary, against any form of threat and harassment."¹³

Legislation designed to guarantee public safety and public order should not be used to "impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights."¹⁴

The involvement of CSOs and human rights defenders in social and political life is a contemporary democratic standard on which there is broad European consensus. The right to civic participation in decision-making processes is of central importance both to the quality of public policies and to the democratic legitimation of the decision-making processes. However, problems such as limited access to information regarding legislative and policy changes, a lack of political will and understanding of the need to conduct high quality consultations, as well as the short periods for such consultations, are just some of the obstacles precluding the full exercise of the right to participation in social and political life.¹⁵

11 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 21.

12 Ibid.

13 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 25.

14 Ibid.

15 FRA (2017), *Challenges facing civil society organisations working on human rights in the EU*, page 10.

In addition, at a time when there is a global trend of increasing state interference in the work of CSOs, and when "there is a systematic and deliberate pattern of authorities employing a crackdown on defenders and civil society groups"¹⁶ it is necessary to warn that the state has a duty to guarantee that human rights defenders can take part in peaceful protests unhindered, with free access to public space, as well as adequate protection in the course of such protests.

Engagement in the Process of Adopting Public Policies

Since support for the work of human rights defenders is most often declarative, examples of real cooperation, that is, concrete partnership between the authorities and civil society organisations are more of an exception than the rule. Human rights defenders have stated that their role in working groups drafting various legislation and other regulations is often marginalised and pro forma, and that there is much room to improve the cooperation with decision-makers.

In her 2017 Report, the Ombudswoman has warned of the difficulties CSOs have communicating with the executive branch of government. This can be seen especially in participation in working groups drafting legislation and other regulations and in e-Consultations processes. Although there has been increased interest from citizens and CSOs in participating in the public decision-making process, the reaction by state bodies is crushing – 32 percent of citizens' comments never even received a reply from the public authorities.¹⁷

There were countless times when you'd get in a working group and that your participation was completely betrayed.

16 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 25.

17 The Ombudswoman (2017), *Annual Report of the Ombudswoman for 2017*, p. 254.

There is no collaborative relationship, no partnership, the state needed us to an extent as a kind of alibi when entering the EU. Faktiv

I think the problem lies in the fact that decision-makers don't even see us as a potential partner, but an interest group and a nuisance. They don't see us as someone with whom they might seek solutions jointly or as people with expertise, but seek to "appease" us so that we're quiet for a bit, and don't bother them or don't make any noise in Europe and similar, and to, like, maintain some kind of status quo here. Rainbow Families

The climate isn't really supportive, so there are still many stereotypes and many social prejudice ruling among all these stakeholders [decision-makers]. As far as politicians and the ruling structures are concerned, they aren't exactly sympathetic towards us and generally speaking, there's no open support or backing for our work. Sometimes a political party will recognise us as relevant and sometimes they'll ask us something, but overall, in this process there's no great cooperation or support.. Zagreb Pride

In the past few months, the Ministry of Internal Affairs has not responded to a single of our requests. Regardless of whether we invoke the Freedom of Information Act, regardless of whether we are asking for an opinion on anything, on a situation or if we're asking for bare statistics, that is, public data that should be accessible. They absolutely fail to respond to a single question. Centre for Peace Studies

The collapse of inter-sectoral cooperation between human rights defenders dealing with refugees' rights and the competent institutions is especially concerning. Although the Centre for Peace Studies is named as co-responsible for implementing the measures in the Refugee Integration Action Plan,¹⁸ and has provided integration activities in reception centres for 15 years, this year their agreement with the MIA has not been extended, and their activities were discontinued at both reception centres – both in Zagreb and in Kutina. This has not only set back inter-sectoral cooperation, but the scope of social services and integration activi-

18 The Government of the Republic of Croatia Office for Human Rights and the Rights of National Minorities (2017), *Action plan for the integration of beneficiaries of international protection for the period 2017-2019*.

ties the Centre for Peace Studies has provided to asylum seekers in reception centres.

*Entering Porin and carrying out activities there is only possible with a mutual cooperation agreement with the MIA. For the past 15 years, with either written or oral agreement, we have had access to the reception centres and provided various activities and services there. However, beginning of September they contacted us to tell us that the agreement has expired. Three weeks ago we received information that the agreement will not be renewed, for which two reasons were given. One was that other organisations are already implementing similar activities, and the other was that there is a physical lack of space, as Porin is undergoing renovation. However, there is also the reception centre in Kutina, where there are not as many organisations active as in Zagreb and where there is a need, on top of which Kutina is not being renovated. What is interesting is that the CPS was explicitly cited in the Integration Action Plan as co-responsible for the measure of providing information and education to seekers in reception centres. (...) We were banned from entering Porin because that is a precondition for limiting direct contact with people. Prohibiting entry into Porin is an arbitrary decision. **Centre for Peace Studies***

The Right to Freedom of Assembly

Although at the normative level, the right to freedom of assembly is well regulated in Croatia, the interviewed human rights defenders have highlighted problems in local self-government bodies' practice. In addition to the uncertainty and intransparency of the process, the adoption of restrictive municipal regulations changing provisions concerning noise, non-compliance with which incurs fines that might impact on organisations solvency, is also concerning.

When it comes to noise, there is a provision stating that noise-level testing must be paid for and that the level of noise may not exceed a certain value set in relation to the normal level of noise in the city at the time of day. (...) You must pay the fine if it is noticed that you did not comply with the provisions. This once prevented us

from organising a solidarity march, we did not know that these provisions had been amended. Provisions on the time when a protest that requires re-routing traffic can be registered with the city bureau were also amended. For instance, if you're registering it, a commission needs to assemble, but it has a discretionary right to choose when it assembles. These are all bureaucratic barriers discouraging people from getting out on to the streets and saying what they think. Organising effective protests has become more costly and more difficult in an organisational sense, which demands more human and financial resources. This definitely prevents some initiatives that are only just taking shape, because they have neither the experience nor the know-how. As far as setting up a stage in the public space – when we organised the protest on Savica, the situation was such that we didn't know when they'd adopt a decision and what it would be. And we registered the protest on time. Until 4-5 days before the event itself, we didn't know whether the session where the vote on our request was to take place would be held. The only place in Zagreb where you can organise something without this permit is Franjo Tuđman Square. For all other spaces, you need the mayor's permission. Which means that when the mayor organises something he supports, that's fine.

Right to the City

The fact that spaces are ceded to various commercial events, making it increasingly difficult to access public space to protest or for public gatherings, is having an increasingly negative impact on the ability to exercise the right to public assembly in Zagreb. Although organisers of peaceful assemblies are allowed the option of negotiating directly with the organisers of the events about allowing use of a public space for the needs of the gathering, in practice, such hyper-commercialisation of public space impedes, and frequently prevents free access to attractive and visible public spaces in Zagreb.

For instance, traditionally, before Pride the flags would always be put up in the Square, but you can no longer get the Square because the entire year is taken up by festivals, fairs on the Square, commemorations. The schedule is full, and then they [the City] tell you either to arrange

things with the organisers of these events, or you've got other locations available. This is a silver lining, to increase visibility a bit in other locations... There are many places in the cities that are officially used to hang flags, so it's great that they are now being used. But there's all this commercialisation that influences what you will or won't get. I think that for "Croatia can Do Better", we had the situation where we couldn't have the Square, but the Tomislav Square [in 2017], because there was a fair on the Square, so we could only get the space around Manduševac, so the procession went from Manduševac to Zrinjevac. They'd tell you, for instance, there'll be a cobblers' fair from 16 to 30 [of the month], so you can't have anything then, and then you have to conjure up locations. Likewise, the Pride Parade now ends in Ribnjak, and not Zrinjevac, because there's always something in Zrinjevac. Again, it's a sizeable space and it's fine there, but you have to change your plans to adapt to commercialisation.

Rainbow Families

In the context of public gatherings, the interviewed human rights defenders have mostly rated cooperation with the police as satisfactory and correct. Nevertheless, in practice, minimal departures from police procedure in cases of protests related to socially sensitive and highly politicised issues requiring increased security measures can be observed. There was a notable case where there was an attempt at persuasion to register a public gathering as a commercial event, which incurs a large financial expense, which would prohibit the exercise of the right to public assembly.

*The MIA and the City have applied the Road Safety Act rather than the Public Assembly Act. And then they insisted on us being an event along the lines of, I don't know, Beerfest or some commercial race and (...) categorised us as some kind of commercial activity and on top of that wanted us to pay the ZET [Zagreb's public transport company], the Zagreb Holding, these people, those people, and also sign a contract with us and we'll send you a bill for security for the parade." So this was definitely a problem, and something they tried to do to various other organisations that tried to organise protests, which is a direct violation [of the right to freedom of assembly], and it's problematic. **Zagreb Pride***

Due to announced counter-assemblies, Serb national minority assemblies require increased police protection, and the organisers are compelled to reschedule or abandon parts of the programmes. Besides, interviewees have warned that citizens have felt fear due to the announced counter-assemblies, which has negatively affected the exercise of the right to free and peaceful assembly.

A number of our assemblies of various sorts – political, cultural, artistic – have often or nearly regularly had to take place under police protection, added to which, when we have our events, counter-assemblies are organised almost on a regular basis. People are invited through the media to actively oppose this, and quite a large number do respond, so that very often we have to reschedule, abandon parts of our programmes; you can sense how afraid people are to come. For instance, to gatherings in Srb or certain cultural festivals.

Serb National Council

THE MEDIA AND PROMOTING HUMAN RIGHTS

States must ensure that human rights defenders have "access to and use of information technologies and the media of one's choice, including radio, television, and the Internet."¹⁹

States should avoid hindering people's access to and use of media and should promote and facilitate it at the national level... as an integral part of the enjoyment of the fundamental rights to freedom of opinion and expression.²⁰

As information intermediaries, the media have a key role in successful work to protect and advocate human rights, and are an important factor in creating a safe environment for the work of civil society. Citizens use the media to get information on important political, social and economic issues, which is a prerequisite for their participation in democratic processes, including through self-organising into formal and informal civil society structures.

On the other hand, the media are a key tool for CSOs to inform the public about their work, to advocate social change and to influence public opinion. The media can therefore have a significant influence on both the environment and the strength of civil society – securing media space can foster and strengthen the work of civil society, while censored or self-censored media contribute to the creation of a disabling climate and insecure environment. The media can both contribute to affirming CSOs' work by giving their issues space and to the transparency and accountability of state institutions by confronting them with citizens' questions, and the civil society's investigations, recommendations and requests. Therefore, states must become aware of the importance of securing access, choice and use of media for human rights defenders and take an active role in promoting and facilitating this access.

¹⁹ Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 23.

²⁰ Ibid.

The Narrowing of Media Freedoms, Fake News and Hate Speech

Over the past three years, a narrowing of media freedoms has been observed in Croatia. Thus, Croatia was ranked 69th out of 180 in Reporters without Borders' press freedom index for 2018, because of government meddling in the work of public media, as well as assaults on and intimidation of journalists, especially those investigating controversial subjects such as war crimes, organised crime or corruption.²¹ In addition, there is the trend of emergence of fake news,²² hate speech, and a growth in readership of portals publishing racist, xenophobic and anti-Semitic content.²³ These negative trends influence the narrowing of the space for freedom of expression and the creation of an unsafe environment for the work of human rights defenders.

As an association dealing with the wars of the 90s and, among other things, the crimes of the Croatian army and armed forces during the wars of the 90s, we are the target of hate speech of all kinds and discrediting, in the sense that we are not given space to speak about it as there is simply no political will to speak about such things.

Youth Initiative for Human Rights

The Joint International Mission of journalists' associations and freedom of expression organisations has warned that in Croatia, "the matter of hate speech and fake news must be taken more seriously, more comprehensively and more pro-actively. Politicians, journalists and public individuals must refrain from participating in, supporting or being perceived as supporting smear campaigns or hateful rhetoric (...). Politicians must condemn such campaigns and rhetoric when it occurs."²⁴ Moreover, one of the recommendations for creating a safe environment for freedom of speech concerns the work of the regulators: "The

21 Reporters Without Borders for Freedom of Information (2018), <https://rsf.org/en/croatia>.

22 Joint International Mission (2018), Press freedom in Croatia: Hate speech and Hope for change, p. 31

23 ECRI (2018), Report on Croatia, fifth monitoring cycle, p. 16

24 Joint International Mission (2018), Press freedom in Croatia: Hate speech and Hope for change, p. 31.

Electronic Media Council should be more active in cases where electronic media are not respecting professional standards, especially in cases of use of hate language in local media."²⁵ The fact that although the process of public consultation has ended as far back as 2015, a media strategy has still not been adopted, has certainly not improved the situation with the media.²⁶

Mainstream Media

In spite of what has been mentioned above, the interviewed CSOs mostly highlight good presence, visibility and recognisability in the media, even though they do cite problems cooperating with mainstream media. Mainstream media are an important factor in the work of all CSOs, but the CSOs mostly highlight a lack of understanding of the role of civil society and their work, while there have been attempts to discredit individual organisations for expressing different views and opinions. Moreover, mainstream media tend to be sensationalist and superficial, and are often uninterested in giving space to CSOs critical thinking, while some organisations have highlighted that they are often portrayed as "those who just oppose everything", and their expertise in discussing certain subjects is put into question.

When there are attempts to discredit us in public, then the media also raise this to a level where we are seen as an organisation that only ever criticises – we are represented as being against everything and against any kind of development. Statements by various ministers, mayors, certainly contributed to things being seen this way, while actually we do a lot of other things that are not only public campaigns against a certain project or policy. I'd say that the media are more our friends than enemies, but there are certain mainstream media that are aligned with mainstream politics, which we aren't. **Green Action**

25 Ibid.

26 Human Rights House Zagreb (2018), Human Rights in Croatia: Overview of 2017, p. 18.

What is always the problem with the media is that maybe they won't carry our statement as we gave it in the article, or will change the emphasis (...) Especially mainstream media. The climate is not stimulating, but it is safe.

Right to the city

Public Media Service

Over the past three years, organisations have also highlighted the weakening of cooperation with the public television, seen in a noticeably smaller number of invitations to take part in certain programmes, prevalence of sensationalism, false information being promoted as scientific facts and the incidence of hate speech. In addition, an absence of critical thinking was observed in public television programmes, by omitting or avoiding the participation of organisations and human rights defenders who had taken a critical stand regarding the subject-matter in prime-time shows.

*As far as the public broadcaster is concerned, there has been an observable deterioration over the past three years. Completely false information are promoted as scientific facts, hate speech is transmitted, trans persons were exposed like some kind of sacrificial lamb [in the discussions around the Istanbul Convention]. **Faktiv***

*Croatian Radiotelevision [CRT] programmes where we appeared fairly frequently have changed, while on the other hand, while the *Otvoreno* programme, where we were regular guests, now no longer invites us, and when I see the structure of these guests, there is no other side there. We are only invited on very rare occasions. **Centre for Peace Studies***

The Joint International Mission of journalists' associations and freedom of expression organisations has also warned about the situation in the public media service. The Mission visited Zagreb in January this year in order to gain an insight into the state of media freedoms in Croatia. Their recommendations to improve the state of media freedoms include guaranteeing the CRT's independence, in the following ways: "Political parties

of all stripes must refrain from interfering with the editorial policy of the public broadcaster HRT – the Croatian Radiotelevision" and by "changing the method of appointing the HRT director general and other HRT governing structures in line with European standards on public broadcasting."²⁷

Non-profit and Independent Media

CSOs in Croatia have highlighted the important and indispensable role played by investigative and critical non-profit and independent media in the promotion and protection of human rights and the work of civil society. Due to their independence, these media can freely and critically open up space for dialogue and further media freedoms, but this also exposes them to pressure, especially over the past three years.²⁸ Human rights defenders in non-profit and independent media recognise the importance of actors whose investigative journalism and critical thinking have contributed to the society's democratic control over decision-makers and who are an essential check on the authorities. Despite their significance, non-profit media in Croatia face the same problems as civil society organisations – a lack of sustainable funding, lack of understanding of their in society and reduced space within which they can act.

Non-profit media play an extremely important role because not only do they follow or work, human rights defenders' work, but I think they write about it critically, that is, put things into context, and they are exceptionally important both for informing and to be used as a source of information in various reports.

Centre for Peace Studies

*Neovisni mediji jedva preživljavaju zbog napada na njih 2016. godine. Oni su nevjerojatno važni, bez njih naprosto ne bismo mogli ništa. S druge strane mislim da su važni ne samo za civilno društvo, nego za društvo generalno, važno je da to prepoznamo. **Faktiv***

²⁷ Joint International Mission (2018), Press freedom in Croatia: Hate speech and Hope for change, p. 31.

²⁸ Platform 112 (2016), Na putu prema dolje – Osvrt na prvih 100 dana rada Vlade premijera Tihomira Oreškovića (On the Way Down – a Look Back on the First 100 Days of PM Tihomir Orešković's Government), p. 3.

NORMATIVE FRAMEWORK AND FUNDING

29 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 11.

30 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 15.

31 Ibid.

32 Ibid.

33 UN General Assembly (1998), *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.

34 Human Rights House Foundation (2018), *The Rights of Human Rights Defenders – Principles and Standards Protecting and Empowering Human Rights Work*, p. 11.

*NGOs should be free to engage in fundraising activities under the same regulations that apply to other entities and the State, whether working on human rights or other activities. In this sense, States must not adopt regulations targeting NGOs, particularly those working on human rights. Discriminatory measures include limiting access to funding by imposing extensive scrutiny or cumbersome fiscal procedures for NGOs.*²⁹

"Where legislation and procedures governing the registration and funding of civil society organisations exist, they should be "transparent, non-discriminatory, expeditious, and inexpensive." ³⁰

*Legislation affecting the activities of human rights defenders must be "clearly defined, determinable, and non-retroactive." It must not inhibit the "functional autonomy" of NGOs.*³¹

Any limitations placed on human rights defenders must be "lawful, proportionate, non-discriminatory and necessary," and should "allow for the possibility to appeal and avoid requiring re-registration." ³²

Guaranteeing free access to sources of financing for CSO activities is an important precondition for human rights defenders to be able to work on protecting and promoting human rights. International documents, including Article 12 of the UN Declaration on Human Rights Defenders³³ and the opinions of the Council of Europe Venice Commission and the UN Special Rapporteur on the right to assembly and association,³⁴ define free access to funding sources and to fund-raising activities as an integral part of the right to freedom of association.

For this reason, encumbering and restricting access to financing has been perceived as a dangerous trend in many European countries, seeking to limit the civil society's room for manoeuvre. The European Union Agency for Fundamental Rights lists budget cuts, redirecting funding from advocacy and monitoring activities exclusively towards provision of

social services, as well as the negative media campaign against foreign financing, as examples of the way CSOs' work is made more difficult.³⁵ It is especially concerning in Croatia that even three years since the previous national strategy for the development of civil society had expired, a new one still has not been adopted.³⁶

Cuts in Funding for CSOs from Public Sources

CSOs in Croatia will remember 2016 as the year that authorities put great pressure on their work, primarily by discrediting and denigrating human rights organisations and cutting funds designated for civil society. With the arrival of the illiberal Government, part of the lottery funds disbursed through the National Foundation for Civil Society Development to associations to carry out activities for the public good was abruptly reduced, ultimately by around 50 percent, which resulted in a 30 percent decrease in grants approved for CSOs.³⁷ Although the Government in power at the time emphasised that the redistribution of funds will improve support for civil society organisations dealing with vulnerable groups, what actually ensued were cuts to funding for those groups that were critical towards the policies of the governing structure. For many organisations, cuts to funding meant reductions in the number of staff and the scope of their activities, and hence reductions in the number of beneficiaries depending on the social services provided by associations instead of the state. Such a financial restriction was an instrument to silence voices critical of the Government's policies, whose aim was to seriously damage the sustainability and autonomy of CSOs in Croatia, who found themselves in the unenviable position of implementing activities in financially uncertain conditions.

35 FRA (2017), Challenges facing civil society organisations working on human rights in the EU, para. 3.2.

36 The Ombudswoman (2017), Annual Report of the Ombudswoman for 2017, p. 252.

37 Human Rights House Foundation and Human Rights House Zagreb (2017), Resisting Ill Democracies in Europe, p.25.

*By indirect means, such as cuts to financing, "Karamarko's Government" sought to dismantle civil society, (...) which they did manage to do, in a very concrete fashion. (...) The way organisations are financed creates completely insecure, precarious working conditions, which is the best weapon against organisations and those employed there. (...) Our working conditions are themselves demotivating and extremely exhausting for people who are finding it very difficult to keep going on. **Faktiv***

*In 2016, both our and others' [civil society organisations'] survival was truly endangered (...) our existence was endangered because it was recognised that we are someone who threatens the economic interests of the elite. (...) The greatest problem for organisations engaged in activism, which bring into question certain important (economic) interests is that they are at risk of being denied funding, that expensive legal actions are brought against them, that various inspections are sent their way, that will always find reason to declare a certain mode of their work problematic and susceptible to penalty. **Right to the City***

Delays in Calls for Applications for Funding for CSOs from Public Sources

In addition to the reductions in funds for financing the work of civil society organisations at the national level, open calls to award funds are frequently delayed, which organisations have recognised as another structural way to obstruct human rights defenders' work, that is, to control and limit the scope and range of their work. This has a particularly negative effect on beneficiaries, that is, it is visible in the work of organisations such as those providing free legal aid.³⁸ Delays in calls for applications also add to the feeling of uncertainty among civil society organisations, preventing them from planning their activities for the long term, as well as from developing organisational capacities, but also undermines individuals' personal feeling of security, due to insecurity of employment.

38 Human Rights House Zagreb (2018), Besplatna primarna pravna pomoć – perspektiva ovlaštenih pružateljica [Free Primary Legal Aid – the Perspective of Authorised Providers], p 27.

*Funds are so late to announce open calls that NGOs were left cashless. This is a very efficient, clear and simple way to diminish the influence of civil society and its work, and I believe that nothing else is needed. We are in such a poor [financial] situation that no-one needs to make an effort to attack us all that much, because [handicapping our work and silencing] is structural. **Faktiv***

*Foot-dragging with open calls, open calls that are announced but are then never launched, this is a kind of subtle way to make it difficult to operate. It would be too much for us as a European Union member state to go ahead with certain more severe repressive methods (prohibitions and similar), so this is a satisfactory way for them to silence or suffocate people a bit, by not financing or complicating financing. **Rainbow Families***

Constraining Administrative Requirements

Constraining administrative procedures restrict and prevent the functional autonomy of CSOs. Instead of focussing mostly on the realisation of their missions and visions in line with their programmes, CSOs are forced to direct a significant share of their resources to administrative and financial affairs. Although the normative framework for civil society activity in Croatia is very developed, certain problems can be observed concerning over-regulation and vague provisions leaving room for legal uncertainty and additionally burdening CSOs' and human rights defenders' work.

There is the problem with the provisions in article 27, paragraph 5 of the Act on Associations, which states that "in legal transactions, an association may not act on the changes, nor use data on the changes from paragraph 1 of this article before they have been entered in the register of associations." The basic problem lies in the fact that the mandates of people authorised to represent organisation begin with the day the decision is reached by the general assembly, while entry into the register, that is, a decision by the City of Zagreb or a county should have a declaratory effect, that is, merely to recognise the state of affairs that set in with the general assembly (this is what

it looks like for certain other forms of legal persons) – it shouldn't be that the decision and the entry are decisive for persons voted in by the assembly to really be able to represent the association in legal transactions. In addition, there is the problem of inconsistent implementation of this provision, and so in some open calls, they demand that you be entered in the register, and in some having submitted the documentation to the City is sufficient.

Centre for Peace Studies

Although transparency of civil society organisations' work is extremely important, both for them and for the society as a whole, and for their donors as well, organisations have noticed that they are being burdened with an increasing administrative load. Such practice often does not follow the principle of necessity and non-discrimination, since civil society is often saddled with more preconditions than business entities are. Likewise, taking into account the great administrative demands and comparing the budgets at the disposal of non-governmental organisations and those of business entities, there is doubt regarding the proportionality of such demands. Therefore, the increasingly numerous administrative requirements civil society organisations need to fulfil do not contribute to the transparency of their work, but prevent them from properly focussing on the substance of their organisations' programmes. All this has a long-term negative effect on the work of organisations, where staff have to place ever greater focus on the "battle with bureaucracy", while diminishing human and time resources are invested in focussing on those social problems because of which they were founded in the first place. Realising organisational missions and visions is hampered – conducting research, advocacy and other programme activities and social activism become marginalised. Many CSOs do not have the resources and capacities to "cope" with such administration, owing to which they

simply no longer embark on preparing more demanding project proposals to secure money to carry out activities from the financially more generous European Union funds and other non-national sources of financing.

Our operation is very transparent, and we have an obligation to report in a series of ways. This administrative part of our obligations keeps growing, so that we spend more and more time preparing reports, which is a pity as we should primarily be protectors of human rights.

Documenta

All these procedures are a horrible burden, and we don't have time to deal with things. It would be great to employ people to work on this, but we can't, especially not considering how much they should be paid. **Faktiv**

This regulation of the sphere of associations' activities has gone too far. There was talk of how things need to be put in order, achieve financial transparency and so on, yet what really happened was handicapping work that didn't make anything more transparent, but merely created more regulations which you don't know how they are applied. (...) The Act on the Financial Management and Accounting in Non-profit Organisations brought with it significantly more pointless work. The idea was to bring some order into things, because supposedly there are great financial malfeasances going on in associations. Lacking better ideas, the Finance Ministry, which was in charge of drafting this Act, simply applied public sector principles to non-profit organisations. These arrangements are completely inappropriate, as they are founded upon a logic that applies to institutions with hundreds of employed and huge state budgets. When applied to organisations with one or two employed persons and annual budgets of between 100 and 200 thousand Kuna – they make no sense at all. **Right to the City**

Sustainability of Financing Human Rights Protection and Promotion Activities

Beside the reductions in, and elimination of, funds for human rights defenders' work, and the already cited demanding administration and financial reporting, drawbacks are also to

be found in the forms and ways of financing the work of civil society. More and more often, financing civil society organisations implies short-term project financing for certain activities, with an emphasis on provision of social services and direct work with beneficiaries. Such financing does not encompass funding for long-term activities such as monitoring policies, strategic litigation and advocacy, which moves organisations away from their watchdog and advocacy roles, and constrains their ability to systematically engage in protecting and promoting human rights. Furthermore, there is less and less accessible long-term financing in the form of institutional grants, infrastructural grants, and subsidies to strengthen CSOs' work capacities, which hampers the development and growth of a strong civil society. Short-term project financing prevents long-term planning and continuous work, so CSOs frequently primarily engage in project activities that are not in their focus, while activities that are truly their focus, but for which they are unable to secure funding due to the conditions of calls for proposals, remain in second place. The Ombudswoman has highlighted that multi-annual programme and institutional financing of activities to protect and promote human rights is key to achieving social change. Among all else, it is also for this reason that a new national strategy for the protection and promotion of human rights has to be drawn up and adopted as a matter of urgency.

Human rights work is often not visible over the course of the duration of a project, usually just a year or two, but it takes years, even a decade before continuous advocacy and activist efforts have concrete results. It is therefore difficult to adapt human rights work

to the conditions of calls for proposals, and its progress nearly impossible to demonstrate in quarterly reports.³⁹

*I think that the funding system has followed the [negative] social shifts [the narrowing space for the work of civil society]. The open calls that are announced and their topics dictate your work for the next year or two. The topic is set, you can use creativity to adapt it, but not too much. The funds are insufficient for a long-term, well-functioning and sustainable operation. Reporting is extensive, bureaucratic, and numerous calls for proposals today come down to box-ticking, compiling logs, counting participants, mostly not focusing on the substance and how it was carried out. It used to be important what kind of social impact a project will have in public, while today it's all about bureaucratic indicators, a numbers race. The direction the associations' work takes is tailored to fit the donors' descriptions in open calls – goals, activities, it's all determined. This way, associations cannot address certain issues for which they cannot get funding. **B.a.B.e***

Discrepancy Between the Needs of the Society and Acceptable Project Activities

In addition to all of the above, organisations also cite the discrepancy between real social needs and acceptable project activities as an important problem in project financing. Although inter-sectoral analyses at the institutional level have been conducted for several years in Croatia, as a basis for the distribution of lottery and public funds financing CSO programmes, there are still problems with programming calls for proposals. The competent state authorities need to invest additional effort in conducting high-quality and long-term structured dialogues with CSOs in their fields as a prerequisite for formulating targeted and sustainable programmes and their clear programming. CSOs are active in many spheres of human rights and are in direct contact with their beneficiaries, and are therefore very well acquainted with the current problems

³⁹ The Ombudswoman (2017), Annual Report of the Ombudswoman for 2017, p. 253.

and needs of their local communities, and of society as a whole.

*Where organisations such as ours can get financing is the European Social Fund – programmes where there is actually a strict series of activities that must be carried out, which doesn't leave room for the flexibility that is essential to activism. (...) This is a challenge – how to enhance flexibility. How to act when a social problem emerges, rather than as a project activity that has to be done in May 2019 and have 20 participants. (...) The greatest challenge for the majority of activist organisations is how to finance activities that cannot be reduced to indicators and roadmaps. **Right to the City***

Co-financing

Since funds from national sources are insufficient for successful and sustainable financing of associations, European Union funds are a very important source of support available to non-governmental organisations. However, organisations have cited several problems with such financing. The first concerns the already mentioned abundant administration and financial reporting. In addition, European Union funds (above all those contracted directly with CSOs by the European Commission and other EU agencies without national intermediaries) pose a great challenge to organisations, in the form of requirements for co-financing projects from own sources. In order for organisations to successfully access funding from these funds, they must have well-built capacities and secure their own funds in advance, which they must invest in project activities as co-financing – the amount ranging from 10 to as much as 40 percent of the total funding needed to implement the project. Taking into account an environment where the organisations face reduced options for national financing, and where there are no adequate subsidies that would secure long-term financing, as well

as undeveloped social philanthropy, it is clear that such financing is risky for organisations, leading to them frequently being unable to access support from the available European funds.

*This is part of a broader context in which funds and calls for European projects harm associations and the civil society, in a way (...) and in which they are fatal to small, grass-roots organisations on the ground, and favour large think-tanks and advocacy organisations. (...) Likewise, they impose a pattern that is very similar to the bureaucratic model of the state, where we adopt a certain jargon that influences the way we think about reality, and then again we won't make a big difference. (...) On the other hand, these same organisations are saddled with market demands, very neo-liberal, and then we have a context in civil society where you have to operate in an environment where you have to resemble a state institution, with all the skills and demands of the private sector. Then there arises the question what difference you can make if you perpetuate the pattern which caused you to come into existence. You deal with yourself and your own indirect expenses. Don't get me wrong, people have to be paid for their work, of course, but it is important for civil society to step away from all this and to continuously question what difference it is really making, and how much does what it does have a point. **Are You Syrious?***

Philanthropy

In addition to national and European funds, that is, public sources of financing, the system of civic and entrepreneurial philanthropy is also extremely important for the work of human rights defenders on protecting and promoting human rights. In order for civic and entrepreneurial philanthropy to develop, it is necessary to create a stimulating social, administrative and taxation environment. Research in Croatia has shown that the "Croatian society is faced with a low level of social capital resulting from the economic crisis, lack of trust and capacities for an empathetic society",⁴⁰ while on the other hand, "the 2% tax

deduction on donations is insufficient and far below the European average of 10%",⁴¹ which has greatly slowed down the development of civic and entrepreneurial philanthropy to support the programmes of CSOs protecting and promoting human rights. On top of this, there are several more reasons why the culture of foundations is underdeveloped in Croatia – "restrictive legislation governing their founding and inexistence of programmes to stimulate the development of foundations, as well as a lack of understanding and knowledge of [the role of] foundations in the Croatian society."⁴² This situation likewise is not helpful when it comes to cross-border donations, a problem that has been recognised in other states and at European Union level.

Mobilising private resources – citizens and the business sector – is crucial for flexible public reaction to cases of human rights violations and raising public awareness through public protests, investigative journalism and rapid advocacy actions that necessarily result in confrontations with the authorities. Likewise, private money allows crisis support for victims of human rights violations, whistle-blowers and activists under pressure, as well as support for new and experimental initiatives by individuals, informal groups and new associations that have the right to try, but also to fail, without which human rights activism loses its innovativeness and creativity. It is important however to note that private sources of financing must not and cannot replace public sources, which are necessary for the continuous implementation of extensive programmes of ongoing support for marginalised groups, but should be understood as a complementary source of support for innovation and crisis situations.⁴³

40 Slagalica – Zaklada za razvoj lokalne zajednice (2017), Individualna i korporativna filantropija u Hrvatskoj [Individual and Corporate Philanthropy in Croatia], p. 82.

41 Human Rights House Zagreb (2018), Human Rights in Croatia: Overview of 2017, p. 16.

42 Europska zaklada za filantropiju i društveni razvoj [European Foundation for Philanthropy and Society Development], Zaklade u Hrvatskoj [Foundations in Croatia].

43 The Solidarna foundation and GONG (2017), Foundations for Human Rights: Examples from International Practice, p. 3.

