



Brussels, 20.7.2021
SWD(2021) 713 final

COMMISSION STAFF WORKING DOCUMENT

**2021 Rule of Law Report
Country Chapter on the rule of law situation in Croatia**

Accompanying the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report
The rule of law situation in the European Union**

{COM(2021) 700 final} - {SWD(2021) 701 final} - {SWD(2021) 702 final} -
{SWD(2021) 703 final} - {SWD(2021) 704 final} - {SWD(2021) 705 final} -
{SWD(2021) 706 final} - {SWD(2021) 707 final} - {SWD(2021) 708 final} -
{SWD(2021) 709 final} - {SWD(2021) 710 final} - {SWD(2021) 711 final} -
{SWD(2021) 712 final} - {SWD(2021) 714 final} - {SWD(2021) 715 final} -
{SWD(2021) 716 final} - {SWD(2021) 717 final} - {SWD(2021) 718 final} -
{SWD(2021) 719 final} - {SWD(2021) 720 final} - {SWD(2021) 721 final} -
{SWD(2021) 722 final} - {SWD(2021) 723 final} - {SWD(2021) 724 final} -
{SWD(2021) 725 final} - {SWD(2021) 726 final} - {SWD(2021) 727 final}

ABSTRACT

The Croatian justice system has seen improvements in reducing length of proceedings and backlogs, but further improvements are still needed to address serious efficiency and quality challenges. The continued extension of the new electronic communication tools in courts has led to a gradual increase in their use. The ongoing process for appointing the new Supreme Court President has given rise to controversy and to repeated disparaging public statements against judges. In the context of diverging views on the next Supreme Court President, the Constitutional Court stressed the importance of cooperation between state authorities. The State Judicial Council made proposals to strengthen its role in selecting judges – an issue already raised in the 2020 Rule of law Report. A series of alleged ethical breaches and disciplinary violations by judges led to proceedings before the State Judicial Council and Judges' Councils, as well as to a criminal investigation. The level of perceived judicial independence remains very low. Shortages in human resources of the State Judicial Council and the State Attorney's Councils remain, even if some limited reinforcements have been allocated to verify the newly published asset declarations of judges and state attorneys.

A new Strategy on the Prevention of Corruption for 2021-2030 is in the public consultation process. As the previous Strategy, the draft proposal of the Strategy also envisages the strengthening the legal framework on prevention of conflict of interest, which is currently being drafted. Codes of Ethics for members of the Government and for members of Parliament are still missing, while “revolving doors” are only partially regulated. Detailed rules on lobbying activities remain to be introduced. While changes to the framework of political immunity of the members of Government were announced, the legislative action has yet to follow. Public procurement procedures remain a high-risk area for corruption, and several cases have been discovered due to reporting by whistleblowers. The prosecution and investigation of high-level corruption continues, but due to protracted proceedings convictions are often delayed.

Croatia is updating its media legislation to transpose the Audiovisual Media Services Directive, with the revision of the Electronic Media Act to be adopted still in 2021. Concerns about the political independence of the Agency for Electronic Media persist, and new qualification requirements are envisaged for potential members of its governing body in the context of the revision of this law. Croatia has a solid framework on transparency of media ownership information and envisages further improvements. While state advertising is partly regulated by the Electronic Media Act, stakeholders report it often undermines the political independence of media outlets which are economically dependent on such funding, notably at local level. A legal framework for the protection of journalists is in place, but they continue to face threats. In particular, the high number of strategic lawsuits against public participation (SLAPPs) targeting journalists continues to be a serious concern. Access to information is ensured by law, but delays in the processing of requests from journalists persist.

As regards checks and balances, while public consultations are embedded in legislative procedures, stakeholders perceive citizen participation to be rather formalistic than substantive. Croatia did not declare a state of emergency, and COVID-19 pandemic measures were based on the twice-amended law regarding infectious diseases. The Constitutional Court has reviewed these measures, finding that they were compatible with the Constitution and also ruled that Parliament should find ways to guarantee its functions during the pandemic. The People's Ombudsperson's access to the information required to undertake investigations needs further improvement. The National Plan for Creating and Enabling Environment for the Civil Society Development 2021-2027 remains in drafting phase since 2016 – an issue raised in the 2020 Rule of law Report.

I. JUSTICE SYSTEM

Croatia has a three-tiered justice system, with courts of general and specialised jurisdiction. The first instance courts of general jurisdiction, dealing with civil and criminal cases, are composed of Municipal courts (34), while the County courts (15) are the second instance courts of general jurisdiction with some competences as first instance courts. The courts of specialised jurisdiction comprise nine Commercial and four Administrative courts at first instance, and the High Criminal Court, the High Misdemeanour Court, the High Commercial Court and the High Administrative Court at second instance. The Supreme Court deals with all types of cases. The Constitutional Court conducts constitutional review. An independent State Judicial Council ensures the autonomy and independence of the judiciary¹. The State Attorney's Office (DO) is an autonomous, independent judicial body, acting as the prosecution service, and undertaking legal actions for protection of state property and applying legal remedies for protection of the Constitution and laws. Each State Attorney's Office is headed by a State Attorney. The State Attorney General is the head of the State Attorney Office of the Republic of Croatia (DORH), as the highest state attorney office. The powers over appointment and career of state attorneys and deputy state attorneys rest with the State Attorney's Council, while the powers over representation and management rest with the State Attorney General². The State Attorney's Council is an independent self-governance body tasked with ensuring the autonomy and independence of the State Attorney's Office³. Croatia participates in the European Public Prosecutor's Office (EPPO). The Croatian Bar Association is an independent, self-governing professional organisation, which is in charge of disciplinary proceedings regarding lawyers⁴.

Independence

The level of perceived judicial independence has been on a downward trend. The level of perceived judicial independence among the general public has deteriorated in 2021 and remains the lowest in the EU (the share perceiving judicial independence to be fairly or very

¹ The State Judicial Council is a judicial self-governance body with 11 members, consisting of seven judges elected by their peers, two university professors of law and two members of Parliament, one of whom is from the opposition. The members of the Council are elected for a four-year term, and can be re-elected only once. The Council is responsible for appointing and dismissing judges and court presidents, deciding on the immunity, transfer and external activities of judges, conducting disciplinary proceedings and deciding on disciplinary responsibility of judges, participating in training of judges and court clerks, adopting a methodology for evaluating judges, keeping the personal records and verifying asset declarations of judges.

² Figures 55-57, 2019 EU Justice Scoreboard.

³ The State Attorney's Council is a prosecutorial self-governance body with 11 members, consisting of seven deputy state attorneys elected by their peers, two university professors of law and two members of Parliament, one of whom is from the opposition. The members of the Council are elected for a four-year term, and can be re-elected only once. The Council's mandate includes the appointment and dismissal, deciding on external activities, participating in training, deciding on objections on the evaluations, keeping the personal records and verifying the asset declaration of state attorneys and deputy state attorneys, as well as deciding on transfer, conducting disciplinary proceedings and deciding on the disciplinary responsibility of deputy state attorneys.

⁴ The Assembly of the Bar elects, in accordance with the Statute of the Croatian Bar Association, the Disciplinary Court (consisting of at least five members and deciding on more serious violations, and on appeals against Disciplinary Councils' decisions), and the Higher Disciplinary Court (consisting of at least five members and deciding on appeals against Disciplinary Court's decisions), while the Executive Board of the Bar elects Disciplinary Councils (consisting of three members and deciding on less serious violations).

good decreased from 24% to 17%)⁵. Among the companies, the level of perceived independence is also very low and dropped to the lowest in the EU (the share perceiving judicial independence to be fairly or very good remained at 16%, with the share of companies which perceived the independence to be very bad increasing from 36% to 43%)⁶. The 2021 EU Justice Scoreboard shows a continued downward trend since 2016. The main perceived reason cited by the general public for the perceived lack of independence of courts and judges is the perception of interference or pressure from the Government and politicians⁷. More detailed surveys could help to address these issues by examining the specific reasons among the different stakeholders in the justice system behind the continuously low level of perceived judicial independence⁸.

The on-going process for appointing the new Supreme Court President has given rise to controversy, and the Constitutional Court stressed the importance of cooperation between state authorities. On 15 July 2021, the four-year mandate of the previous Supreme Court President came to an end. The process for appointing the new President has led to an intense exchange between highest representatives of state authorities, which included repeated negative statements about Supreme Court and other judges⁹. According to the Constitution, the President of the Supreme Court is appointed by the Parliament on the proposal from the President of the Republic¹⁰. The General Assembly of the Supreme Court and the competent parliamentary committee give their opinions on the candidates¹¹. As clarified by the Constitutional Court, these opinions, which have to be given regarding all candidates, are not binding on the President of the Republic¹². In line with amendments adopted in 2018¹³, in February 2021 the State Judicial Council transmitted to the Office of the

⁵ Figure 48, 2021 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁶ Figure 50, 2021 EU Justice Scoreboard.

⁷ Figure 49, 2021 EU Justice Scoreboard. The main perceived reason stated by the companies is the perception of interference or pressure from economic or other specific interests, closely followed by the perception of interference or pressure from the Government and politicians. Figure 51, 2021 EU Justice Scoreboard. It is to be noted that over the five-year period, the share of general public and companies that mentioned these reasons has remained the highest in the EU in comparative terms.

⁸ The last comprehensive survey of court users and professional was conducted in 2015 on accessibility of the court service, customer service at the court, the conducting of the hearing, the judgment of the court, and the service provided by the lawyer. Figure 45, 2017 EU Justice Scoreboard. See also Figure 49, 2018 EU Justice Scoreboard, Figure 42, 2019 EU Justice Scoreboard, Figure 42, 2020 EU Justice Scoreboard, and Figure 37, 2021 EU Justice Scoreboard, showing that in 2016-2019, no surveys were conducted.

⁹ These statements were made by certain representatives of the executive power. In reaction, the Association of Judges and the Supreme Court issued press releases denouncing such statements, e.g. General Assembly of the Supreme Court, Press release of 26 March 2021; Association of Judges, Press release of 29 April 2021; General Assembly of the Supreme Court, Press release of 18 May 2021.

¹⁰ The Constitution of the Republic of Croatia, art. 116(2).

¹¹ The Constitution of the Republic of Croatia, art. 116(2).

¹² Judgment of the Constitutional Court of 23 March 2021, U-I-1039/2021, para. 18.1.

¹³ The 2018 amendments to the Law on Courts introduced the requirement that a vacancy notice for the position of the Supreme Court President has to be published in the Official Journal, and that the vacancy procedure is managed by the State Judicial Council. Law on Courts, amended articles 44, 44.a and 44.b. The State Judicial Council publishes the candidates' CVs and the Supreme Court work programmes they submitted on its website. The Council then transmits the applications of the candidates to the Office of the President of the Republic, which requests opinions on the candidates from the General assembly of Supreme Court judges and the competent parliamentary committee. It should be noted that the State Judicial Council has only an administrative role in the vacancy procedure, and does not give its opinion on the candidates or select them.

President of the Republic the applications of the three candidates (including the incumbent Supreme Court President). The President of the Republic proposed to the Parliament a candidate who had not applied to the vacancy, claiming that the 2018 amendments to the Law on Courts prescribing the vacancy procedure are “unconstitutional”¹⁴. The Constitutional Court later found the 2018 amendments to be in compliance with the Constitution¹⁵. The Court clarified that the President of the Republic can only choose from among the candidates who have applied to the vacancy; however, the President can also decide not to propose any of the candidates who applied and inform the Parliament¹⁶. An unsuccessful candidate can request review of the Parliament’s decision before the Constitutional Court¹⁷. The Court also stressed the constitutional requirement of cooperation between state authorities in finding joint solutions in compliance with the rule of law and avoiding destabilising situations, which would hamper the functioning of the Supreme Court¹⁸. After the Constitutional Court judgment, the President of the Republic requested for the vacancy to be re-published¹⁹. Following a new announcement, the President of the Republic in June 2021 proposed to the Parliament one of the five candidates who applied (no current Supreme Court judge applied), but the Parliament did not appoint the candidate²⁰. On 7 July 2021, the State Judicial Council published the third public call. As the new Supreme Court President has not been appointed before the term of the previous President expired, this role will be performed, potentially for a prolonged time, by the deputy Supreme Court President²¹. Considering that the candidate for the President of the Supreme Court could be at the same time also appointed as a new judge (if the person was not a judge already), it is worth noting that under Council of Europe recommendations on the process for the selection of judges, where the constitutional or other legal provisions prescribe that the head of state, the government or the legislative power take the decisions, the opinion of an independent and competent authority drawn in substantial part from the judiciary (in this case the General Assembly of the Supreme Court) should be followed by the relevant appointing authority in practice²².

¹⁴ Office of the President of the Republic, Press release of 8 March 2021. In an earlier interview, the President of the Republic stated that he doesn’t intend to propose any of the three candidates, as this would “seriously deviate constitutional customs”. He also declared that “the law that gives a role to State Judicial Council [in the vacancy process] is pointless” and that he will not select a candidate among the Supreme Court judges.

¹⁵ Judgment of the Constitutional Court of 23 March 2021, U-I-1039/2021, U-I-1620/21. The initiative for constitutional review was launched by a citizen.

¹⁶ Judgment of the Constitutional Court of 23 March 2021, U-I-1039/2021, U-I-1620/21, paras. 18.2., 18.2.1. The Court clarified that the State Judicial Council should transmit to the President of the Republic only those applications that were valid and fulfilled the statutory criteria. (para. 18.1). The Court also stressed that the Council is required, according to the 2018 amendments, to appoint, outside of regular procedures for becoming a judge, the new Supreme Court President as a judge with a permanent tenure, if that person had not been a judge before. (para. 18.2.6).

¹⁷ Judgment of the Constitutional Court of 23 March 2021, U-I-1039/2021, U-I-1620/21, para. 18.2.6.

¹⁸ Judgment of the Constitutional Court of 23 March 2021, U-I-1039/2021, U-I-1620/21, para. 18.2.1.

¹⁹ Office of the President of the Republic, Press release of 25 March 2021.

²⁰ The General Assembly of the Supreme Court did not issue a positive opinion for any of them. Supreme Court, Press release of 18 May 2021. On 8 June 2021, after presenting their programmes for the work of the Supreme Court before the parliamentary Committee for the Judiciary, neither of the four remaining candidates (one candidate withdrew his candidacy) received the majority of votes of the members of the Committee. On 25 June 2021, the proposed candidate did not receive the required majority in the plenum of the Parliament.

²¹ Law on Courts, art. 44.c. The appointment process is subject to controversy and has already led to two successive public calls, and in the absence of agreement in Parliament, this process could be further prolonged.

²² CM/Rec(2010)12, para. 47. Under EU law, the involvement of a body such as the council for the judiciary in judicial appointment procedure may contribute to making that process more objective by circumscribing the

The State Judicial Council made proposals to strengthen its role in selecting judges. The 2020 Rule of Law Report found that the State Judicial Council and the State Attorney's Council are facing challenges following amendments that reduced their role in selecting judges and state attorneys²³. As regards judges, the 2018 amendments decreased the number of points that the State Judicial Council can award to candidates based on the interview, which reduced the possibility of the Council to distinguish amongst candidates²⁴. In March 2021, the State Judicial Council prepared an analysis of provisions of the law on the selection of judges and proposed changes²⁵. The Council stressed that current provisions on awarding of points to candidates in the selection procedure compromised its ability to act as an independent and autonomous body tasked with ensuring the independence of judiciary. According to the Council, the current system, where the points achieved in the State school for judicial officials have the decisive role in the selection of judges, leaves the Council without significant role or influence in the selection of judges. The new proposals reflect on how to improve the Council's role in the selection process. The Council also proposed improvements to the framework on disciplinary proceedings regarding judges, particularly regarding deadlines. In this respect, the resources available to the State Judicial Council and to the State Attorney's Council are important elements for improving the quality of work of both Councils.

The State Judicial Council and the State Attorney's Council received additional resources to verify the newly published asset declarations of judges and state attorneys. In January 2021, the asset declarations of judges and state attorneys were published online and became publicly available²⁶. The 2020 Rule of Law Report found that support with electronic tools and adequate human resources would be needed to ensure that the State Judicial Council and the State Attorney's Council can effectively and quickly verify the declarations, if possible already prior to their publication online. Both Councils have started taking steps to enable the connection of their ICT systems with databases of the competent authorities²⁷. However, connection of the Councils to these databases, once achieved, would

executive's discretion as regards such appointments, provided that such council is sufficiently independent. Judgment of the Court of Justice of the EU, Case C-824/18 AB et al., paras. 124-127 and the case-law cited.

²³ 2018 amendments to the Law on State Judicial Council.

Judicial and prosecutorial posts are filled in a merit-based process based on a scoring system, which takes into account two elements. The first one is either the final score of the candidate in the National School for judges or state attorneys or, in case of appointment to another court of an existing judge, the assessment of judicial performance. The second element is the interview before the respective Council. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 3-4.

²⁴ The amendments also limited the choice of candidates among which the Council can conduct an interview. The consequences of these amendments could be seen in some procedures for appointment in 2019 and 2020, where Councils faced challenges in trying to avoid reducing the appointment procedure to a mechanical counting of points. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 4.

²⁵ The State Judicial Council proposed changes to the Law on State Judicial Council, particularly increasing the number of points awarded after the interview with the candidate to the level before the 2018 amendments, and revising the provisions on which candidates can be invited to an interview. Information received in the context of the country visit to Croatia.

²⁶ The amended system of submitting, conducting, controlling and publishing reports on the property of judges, state attorneys and deputy state attorneys (asset declarations) was introduced in law in 2018. Judges and state attorneys are required to submit their asset declarations in the electronic form and the data on their property are public and published on the Councils' websites, while respecting data protection rules. Input from Croatia for the 2021 Rule of Law Report, pp. 3-5, 17-18.

²⁷ Input from Croatia to the 2021 Rule of Law Report, pp. 3, 17. To gain access to the data bases in other institutions (e.g. tax administration, financial agency, ministry of transport, ministry of agriculture, land

allow more efficient verification of assets²⁸. As stated in the 2020 Rule of Law Report, these ICT systems do not automatically detect inconsistencies between the declared and real assets of judges and state attorneys. In April 2021, the Councils received three officials (one civil servant was transferred to State Attorney's Council and two were transferred to State Judicial Council), transferred temporarily from the Ministry of Justice and Public Administration, in order to help with manual verification of asset declarations²⁹. The implementation of an automatised software solution for both Councils, aiming at automatised comparison of data, is envisaged to be introduced by end 2021. Further improvements of the software solution for both Councils as well as for the Commission for the Resolution of Conflict of Interest (which has been using a software solution since 2018), is envisaged only for 2024³⁰, in line with the National Recovery and Resilience Plan.

The State Judicial Council, Judges' Councils, and investigative authorities are reacting to a series of alleged ethical breaches and disciplinary violations by judges. In the beginning of 2021, several events involving judges have been extensively reported in the press and discussed in the public that allegedly took place in 2020 and 2021. One situation involved five judges who allegedly violated the COVID-19 pandemic restrictions. Proceedings were initialised by the President of the Supreme Court for a breach of the Code of Judicial Ethics³¹. In March, one Judges' Council found a breach concerning one judge, while another Judges' Council found no breach regarding remaining four judges. In an appeal against all five decisions, the Ethical Council on 13 May 2021 decided that all five judges violated the Code of Judicial Ethics due to breaching COVID-19 pandemic restrictions³². The second situation involved allegations of violations of impartiality and improper gifts to deciding judges from the suspect in a criminal case (a prominent public figure), where the President of the relevant Court initiated disciplinary proceedings before the State Judicial Council. The proceedings regarding judges, including criminal proceedings, are still ongoing³³. The Judges' Councils at courts decide on breaches of the Code of Judicial Ethics regarding the judges in those courts³⁴. The decision can be appealed before the Ethical Council, a panel of judges selected by the presidents of all Judges' Councils³⁵. Decisions on

registry, cadastre), both Councils will need to conclude agreements with each institution, which specify what kind of information will be shared and include data protection provisions.

²⁸ Information received in the context of the country visit to Croatia.

²⁹ In February 2021, the Ministry of Justice and Public Administration held a tripartite meeting with the representatives of the Commission for the Resolution of Conflict of Interest and the State Judicial Council, with the aim of exchanging experiences in introducing the ICT applications. Input from Croatia for the 2021 Rule of Law Report, p. 18.

³⁰ Announced in the National Recovery and Resilience Plan submitted by the Croatian Government on 18 May 2021.

³¹ Supreme Court, Request from the President of the Supreme Court, 5 March 2021.

³² The Ethics Council of the Supreme Court of the Republic of Croatia has decided on the complaints of judges in the procedure of assessing the existence of a violation of the Code of Judicial Ethics, Press release of 31 May 2021.

³³ On 9 June 2021, three judges were arrested in relation to the alleged corruption offences. It is to be noted that the President of the relevant Court also requested a new security check regarding the judges dealing with corruption and organised crime cases at that court.

³⁴ The decision establishing an ethical breach is inserted into judges' personal file and transmitted to the relevant court president.

³⁵ Law on Courts, articles 106, 107 and 107.a.

disciplinary sanctions regarding judges are made by the State Judicial Council, and can be appealed before the Constitutional Court³⁶.

Quality

The use of electronic communication tools in courts is gradually increasing³⁷. According to the 2021 EU Justice Scoreboard, the Information and Communication Technologies (ICT) for case management and the electronic communication between courts and parties remain among the least developed in the EU³⁸. As regards the use of ICT in case management, the introduction of the “e-File” system for the last remaining courts is underway, to be operational by the end of 2021³⁹. As regards the electronic communication tools, the “e-Communication” system, which allows exchanging documents with court electronically, it has been introduced to Commercial, County and Municipal courts, the High Commercial Court and the Supreme Court (only for civil cases). Currently, the main users of this system are lawyers, public notaries, court experts, appraisers and interpreters, and insolvency practitioners⁴⁰. The use of the e-Communication system increased during 2020, after the law prescribed electronic communication as mandatory for legal persons (citizens still have a choice to use paper)⁴¹. However, room for improvement remains, particularly in criminal cases: while technical conditions for electronic communication between the state attorneys and courts exist, amendments to the Criminal Procedure Code, envisaged for 2022, will be necessary⁴². As regards the electronic communication between the state attorneys and the police, a test trial has been done. The police is sending indictments in misdemeanour cases to the courts, but for courts to communicate electronically with the police, legislative amendments are needed. The publication of first and second instance court judgments remains very limited⁴³. The e-File system is envisaged to be upgraded by 2023⁴⁴ with a special anonymisation module, allowing for the publication of judgments on a publicly accessible and searchable portal⁴⁵.

The State Judicial Council and the State Attorney’s Councils have received some temporary reinforcements, but a shortage in human resources remains. As stated in the 2020 Rule of Law Report, the State Judicial Council and the State Attorney’s Council have considerable powers⁴⁶, but their administrative capacity remains very limited⁴⁷ and the situation has not significantly improved. While in 2020 both Councils have formally received

³⁶ Law on State Judicial Council, articles 62-79. For a comparison of authorities involved in disciplinary proceedings regarding judges in all Member States see Figures 52-53, 2020 EU Justice Scoreboard.

³⁷ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 4.

³⁸ Figures 40-47, 2021 EU Justice Scoreboard.

³⁹ In four first-instance Administrative courts, and the High Administrative Court. Input from Croatia for the 2021 Rule of Law Report, p. 9.

⁴⁰ Input from Croatia for the 2021 Rule of Law Report, p. 8.

⁴¹ At the end of 2020, about 49% of all documents were sent and received electronically in Commercial courts, and 26% in Municipal courts. Information received in the context of the country visit in Croatia.

⁴² Announced in the National Recovery and Resilience Plan submitted by the Croatian Government on 18 May 2021.

⁴³ Figure 46, 2021 EU Justice Scoreboard. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 6-7.

⁴⁴ Announced in the National Recovery and Resilience Plan submitted by the Croatian Government on 18 May 2021.

⁴⁵ Input from Croatia for the 2021 Rule of Law Report, pp. 8-9.

⁴⁶ See footnotes 1 and 3 above.

⁴⁷ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 4-5.

more financial resources (25% more for the State Judicial Council and 40% more for the State Attorney's Council, compared to 2019), the COVID-19 pandemic related restrictions postponed using these resources for hiring of new staff. So far, the Councils only received some temporary reinforcements for dealing with verification of asset declarations of judges and state attorneys⁴⁸.

A new High Criminal Court began its work as a specialised appeal court in criminal cases. In January 2021, the High Criminal Court began its work as a specialised court with jurisdiction to decide on appeals against decisions made by County Courts (either acting as first instance or second instance criminal courts)⁴⁹. The court started its work following the Constitutional Court judgment which held that the High Criminal Court does not put under question the constitutional position of the Supreme Court⁵⁰. The necessary professional and administrative staff and properly equipped court space has been provided. The State Judicial Council appointed 11 out of the total of 15 judges, as determined by the decision of the Minister of Justice and Public Administration for this court, as well as the new President of the court⁵¹. The new court, as envisaged, should alleviate the work of the Supreme Court as a second instance court. The Supreme Court would be able to focus on the legal issues in criminal cases, acting as a third instance court.

Efficiency

The backlogs and length of proceedings decreased at second instance courts and mostly increased at first instance courts, and remain among the most considerable in the EU⁵². The COVID-19 pandemic as well as the massive earthquakes in Zagreb and Petrinja adversely impacted on the efficiency of first instance courts in particular, mostly due to delayed hearings, while the second instance and Supreme Court, which mostly operate on the basis of written court files, continued working with improved efficiency⁵³. In 2020, the

⁴⁸ See the Independence section above.

⁴⁹ Criminal Procedure Code, art. 490: (1) An appeal against a second instance judgment is allowed to a third-instance court only if: 1) the court of second instance has imposed a sentence of long-term imprisonment or has confirmed the first-instance verdict by which such a sentence was imposed; 2) the second-instance court reversed the first-instance verdict acquitting the accused and pronounced the verdict finding the accused guilty.

⁵⁰ The request for review of constitutionality claimed, among others, that the Law on Courts and Criminal Procedure Code unconstitutionally narrowed down the jurisdiction of the Supreme Court to act as a third instance court and unconstitutionally removes the jurisdiction to act as the second instance court. The Constitutional Court held that the legislative power has the discretion to decide which court will decide on which types of issues. It also stated that the measures used by the Supreme Court to ensure the constituency of case law will not be endangered, particularly if the Supreme Court invites to its meetings on consistency of case law (under art. 27 of the Law on Courts) also the president of the High Criminal Court. Judgment of the Constitutional Court of 3 November 2020, U-I-4658/2019.

⁵¹ The remaining four candidates for judges did not receive sufficient votes in the State Judicial Council and the vacancy has not been repeated, also in light of the fact that the number of cases before the court is currently low.

⁵² Figures 6-19, 2021 EU Justice Scoreboard.

⁵³ On 2 November 2020, the Supreme Court President issued an instruction for court presidents to organise the work following two models. According to Model A, the first instance courts act in all types of cases within their jurisdiction, in compliance with the epidemiological measures and with a view to reduce the number of persons in the court buildings, while outside activities are limited to urgent. Use e-Communication is recommended, as is to hold second instance court hearings using video/audioconferencing tools. According to Model B, used after approval of the Supreme Court President in case of an unfavourable development of the epidemiological situation, the first instance courts act only in urgent cases of urgent, and only judges who are assigned to such cases come to court. Hearings in all other cases are adjourned for 14 days.

average length of proceedings in the first instance courts remained among the longest in the EU and mostly increased, with 1000 days in litigious commercial cases (735 in 2019), and 705 days in criminal cases at Municipal courts (691 in 2019), while decreasing in litigious civil cases to 826 days (854 in 2019)⁵⁴. The average length of proceedings mostly decreased before the County courts, where litigious civil cases at second instance took only 233 days (258 in 2019), and criminal cases took 804 days (930 in 2019). At first instance courts, backlogs decreased by 13% in commercial cases (compared to 2019), but increased by 15% in 2020 in litigious civil cases, 12% in administrative and by 9% in criminal cases. Before second instance County courts, backlogs decreased in litigious civil cases by 22%, and by 9% in criminal cases. Both High Commercial Court and Supreme Court further decreased the length of proceedings and backlogs in commercial and civil cases, respectively. In early 2021, the Ministry of Justice and Public Administration began drafting action plans to improve the efficiency of the work of courts, envisaging that for each judicial area and specialised courts a tailored plan would be developed⁵⁵.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Justice and Public Administration is the central corruption prevention body, with a dedicated unit for coordinating the implementation of anti-corruption strategies and related action plans. It also acts as a central body for exchanging data on the suppression of corruption. The Council for the Prevention of Corruption (a government advisory body composed of representatives of public institutions and non-governmental organisations) and the National Council for Monitoring the Implementation of the Strategy for Combating Corruption, report to the Parliament twice a year. The Office for the Suppression of Corruption and Organised Crime (USKOK) is the specialized prosecutor's office in charge of corruption offences, and the National Police Office for the Suppression of Corruption and Organised Crime (PNUSKOK) is the specialised police department in charge of preventing, detecting, and investigating complex corruption-related crimes. The new High Criminal Court began its operation in 2021 as a second instance court in corruption cases prosecuted by the USKOK⁵⁶. The Ombudsperson's office is developing its new task on the management of reports made by whistleblowers.

The perception among experts and business executives is that the level of corruption in the public sector remains high. In the 2020 Corruption Perceptions Index by Transparency International, Croatia scores 47/100 and ranks 18th in the European Union and 63th globally⁵⁷. This perception has deteriorated⁵⁸ over the past five years⁵⁹.

Activities outside of court building are suspended. In the second instance courts, the court president determines the schedule of hearings, with recommended use of video/audioconferencing tools. Input from Croatia for the 2021 Rule of Law Report, p. 14.

⁵⁴ Data for 2020, Ministry of Justice.

⁵⁵ Input from Croatia for the 2021 Rule of Law Report, p. 11.

⁵⁶ For more information on the functioning of the High Criminal Court and the judgment of the Constitutional Court of 3 November 2020, U-I-4658/2019, see section on the Quality of justice system above.

⁵⁷ Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁵⁸ In 2015, the score was 51, while in 2020, the score is 47. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

A new Anti-Corruption Strategy 2021-2030 is in public consultation, while the previous Strategy has expired. The decision to initiate the process of drafting the new strategy was adopted on 19 November 2020⁶⁰. After internal consultation, the draft proposal of the strategy is now published for public consultation⁶¹. The new strategy will be complemented by three-year implementation plans. The first implementation plan is foreseen to cover 2022-2024 and the drafting will only start after the adoption of the strategy⁶². According to the authorities, the comprehensive Anti-Corruption Strategy 2021-2030 will aim at addressing a wide range of open issues by identifying the specific corruption areas that need to be strengthened as also underlined by international recommendations⁶³. The main focus areas of the strategy will be on prevention⁶⁴, strengthening the institutional and legal framework for fighting corruption, raising awareness on the harmfulness of corruption in the general public, increasing transparency of the work of public bodies and improving integrity systems in numerous priority areas⁶⁵.

The institutional framework to fight corruption has undergone some institutional reorganization to increase efficiency. On 22 July 2020, the Ministry of Justice and the Ministry of Public Administration were merged into the Ministry of Justice and Public Administration⁶⁶. This new structure aims to improve the work of the Sector for the Prevention of Corruption, which now includes two new organizational units⁶⁷. Furthermore, the Council for the Prevention of Corruption now includes representatives from the State Election Commission, the Ombudsperson and the Central State Office for the Development of the Digital Society. Human and financial resources have recently slightly increased⁶⁸. However, the Commission for the Resolution of Conflict of Interest has a limited number of staff⁶⁹.

The legislative framework to fight corruption remains to be reformed. The abolishment of political immunities of Government members was announced in the Government's Program 2020-2024⁷⁰ but so far the rules remain as indicated in Art. 34 of the Law on the Government, which foresees the immunity for all crimes punishable with up to five year imprisonment. Bribery is sanctioned in the criminal code with penalties up to ten years

⁵⁹ The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

⁶⁰ The Anti-Corruption Strategy 2015-2020.

⁶¹ The draft proposal of the Anti-Corruption Strategy 2021-2030 has been published in the e-consultation portal of the Government.

⁶² Written contribution from Croatian Government for the 2021 Rule of Law Report, p. 12.

⁶³ List of international recommendations as mentioned in the draft Anti-Corruption Strategy, p. 6.

⁶⁴ The Anti-Corruption Strategy 2015-2020 focused on prevention, see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 9.

⁶⁵ Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 5.

⁶⁶ Input from Croatia for the 2021 Rule of Law Report, p. 15.

⁶⁷ Input from Croatia for the 2021 Rule of Law Report, p. 15. The two new units are: the service for strategic planning, coordination of national documents implementation and raising public awareness; and the service for international cooperation and the development and improvement of the normative framework.

⁶⁸ Input from Croatia for the 2021 Rule of Law Report, p. 15.

⁶⁹ Information reported by the Commission for the Prevention of Conflict of Interest in the context of the country visit to Croatia.

⁷⁰ Government of the Republic of Croatia, Programme of the Government 2020-2024, p. 45. The Plan of Legislative Activities of the Government for 2021 stipulates, for the 4th quarter, referral to the procedure of working bodies regarding the amendments. This Law would aim at abolishing the immunity of members of the Government for corrupt criminal offenses that are prosecuted *ex officio*.

imprisonment and the same provisions are also applicable to foreign officials⁷¹. The current draft proposal of the Anti-Corruption Strategy 2021-2030, which is in public consultation, foresees a specific milestone to improve the framework for fighting bribery in international business transactions⁷². In this context, the draft strategy proposes that the legislative framework on immunity for members of the Government is to be strengthened by excluding immunity for corruption offences, as also recommended by GRECO⁷³.

The prosecution and investigation of high-level corruption cases continue, but due to protracted proceedings convictions are often delayed. The positive trend on corruption investigations and prosecutions continued, including at local level⁷⁴. In 2020, the State Attorney's Office initiated indictments against 84 persons (109 persons in 2019). In the same period, the Courts delivered judgments regarding 92 persons out of which 78 were convicted (85%). As regards the sanctions for corruption offences, 31 persons received jail sentences (for 12 persons jail sentence was changed into work for the public good) and 47 conditional sentences. In 2020, the length of investigations led by the state attorneys in the Office for the Suppression of Corruption and Organised Crime (USKOK) increased (due to complexity of cases and COVID-19 pandemic). In only about 28% of USKOK cases, the investigation was finished within six months (90% in 2019). In about 35% of cases, the investigation lasted up to one year, while in the remaining 35% of cases, the investigation lasted up to 18 month or above. Once the cases reach the Courts, several high level corruption cases face lengthy procedure that delays Court rulings⁷⁵. No clear steps have been taken to address the inefficiencies of the justice system reported in the 2020 Rule of Law Report. In order to address this issue, the draft Strategy sets the objective of improving the legal framework for the prosecution of corruption offences with the aim of speeding up judicial proceedings⁷⁶. As for present resources available, USKOK reported the difficulties in recruiting new state attorneys with applicants not matching expertise requirements⁷⁷. Both the USKOK and the National Police Office for the Suppression of Corruption and Organised Crime (PNUSKOK) reported that the cooperation in investigating and prosecuting corruption offences is working well. National authorities reported that available resources are considered sufficient and specialized anti-corruption trainings are available online. Shortcomings have been identified as regards the availability of equipment to carry out complex investigative activities⁷⁸.

⁷¹ Arts. 293-294 criminalise bribery, however, there is no a clear reference to foreign officials. Art. 89(3) of the Criminal Code defines "official person". OECD, *Foreign Bribery Offence and its Enforcement in Eastern Europe and Central Asia*, 2016, p. 69.

⁷² Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 30.

⁷³ GRECO Fifth Evaluation Round, Evaluation Report, 6 December 2019, para. 99.

⁷⁴ In 2020, the State Attorney's Office received criminal notifications regarding 1 230 alleged suspects of corruption offences, representing 72% of the total criminal notifications received by USKOK (in 2019, there were 1003 suspects representing 73% out of total notifications). This shows about 20% increase in the number of alleged suspects compared to recent years. To be noted that more than 90% of these notifications were dismissed and most of them arrived from citizens. State Attorney's Office, Report for 2020, 29 April 2021, pp. 187-188.

⁷⁵ In 2020, the average length of criminal proceedings at first instance was 733 days in Municipal courts and 804 in County courts (dealing with serious criminal cases). Data from the Ministry of Justice and Public Administration. Regarding corruption cases, one example is the Fimi-media case running since 11 years.

⁷⁶ Draft proposal of the Anti-Corruption Strategy 2021-2030, p. 32.

⁷⁷ Information provided by USKOK in the context of the country visit to Croatia. For instance, lack of specialised software, forensic tools to investigate electronic equipment.

⁷⁸ Information provided by PNUSKOK in the context of the country visit to Croatia.

According to the draft Strategy, PNUSKOK will benefit from digitalisation and renovation both at national and a local level⁷⁹.

Limited progress has been made on the strengthening of the legal framework on prevention of conflict of interest since the 2020 Rule of Law Report⁸⁰. The 2020 Rule of Law Report found that the legal framework on conflict of interest needs improvement as regards its implementation and in order to ensure that the Commission for the Resolution of Conflicts of Interest has sufficient powers to impose deterrent sanctions and perform its essential preventive role⁸¹. While the legal framework on conflict of interest did not change, the draft proposal of the Anti-Corruption Strategy 2021-2030 commits to improving it, providing some details on what this would include⁸². The decisions of the Commission for the Resolution of Conflicts of Interest have been subject to a number of judgments of the administrative courts and the Constitutional Court⁸³. For example, on 12 September 2019, the High Administrative Court, with regard to powers of the Commission under article 5 of the Law on the Prevention of Conflict of Interests, confirmed the practice of the Commission and the sanctions it had delivered. On 10 December 2020, the High Administrative Court delivered its judgment on an appeal and, by reference to the provisions in Article 5 of the Law on the Prevention of Conflict of Interests, ruled that the Conflict of Interest Commission does not have the powers to sanction only a violation of principles of conduct of public officials⁸⁴. The issue concerns the interpretation of Article 5⁸⁵ and the possibility for the Commission to impose sanctions on public officials solely on the basis of this provision⁸⁶. The implications of this judgment are important as it rules on the sanctioning powers of the Commission for the Resolution of Conflicts of Interest⁸⁷. The Group of States against Corruption of the Council of Europe (GRECO) examined the powers of the Commission for the Resolution of Conflicts of Interest and highlighted that the Commission can only establish whether there is a violation but cannot impose sanctions when it comes to Articles 2 and 5 of the Law⁸⁸. In this regard, GRECO recommended to review the available sanctions for violations of the Law on the Prevention of Conflicts of Interest in order to ensure that all violations have proper consequences. Civil society expressed concerns on the possible diminishing of the Commission's sanctioning powers following the ruling of the High Administrative Court⁸⁹. The Commission for the Resolution of Conflicts of Interest has raised concerns about inconsistent case law and has proposed to the State Attorney's Office to

⁷⁹ Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 36.

⁸⁰ 2020 Rule of Law Report, country chapter for Croatia, p. 10.

⁸¹ 2020 Rule of Law Report, country chapter for Croatia, p. 10.

⁸² Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 44-45.

⁸³ E.g. Judgment of the Constitutional Court of 2 July 2019, U-III-673/2018. This judgment quashed the judgments of the Administrative Court and High Administrative Court with the reasoning, among others, that the courts did not provide for effective judicial control.

⁸⁴ Judgment of the High Administrative Court of 10 December 2020, Usz – 2745/18-5.

⁸⁵ Article 5 of the Law refers to the principles to which public officials must adhere in executing their public duties – acting honestly, conscientiously, responsibly and impartially, preserving their credibility and dignity.

⁸⁶ According to the ruling of the High Administrative Court, the Commission for conflict of interest can only impose sanctions according to the list of breaches included in Article 42 of the same law and the provisions of Article 5 are not foreseen in this list. Judgment of the High Administrative Court of 10 December 2020, Usz – 2745/18-5.

⁸⁷ At the same time, similar ongoing procedures by the Commission for Prevention of Conflict of Interest might be affected by the High Administrative Court ruling.

⁸⁸ GRECO, Fifth Evaluation Round: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, 24 March 2020, para. 92.

⁸⁹ GONG, Letter to GRECO: The Commission must not be destroyed, 4 February 2021.

initiate before the Supreme Court the extraordinary review of the High Administrative Court's judgment in view of quashing this judgment, which was rejected on 14 May⁹⁰. On 27 May 2021, the High Administrative Court delivered an additional judgment in relation to Article 5 of the Law confirming the judgment of the Administrative Court delivered on 19 December 2020⁹¹.

Ethics rules for members of the Government and for members of the Parliament are missing and “revolving doors” remain only partially regulated as reported in the 2020 Rule of Law Report⁹². The absence of a Code of Ethics for the Members of the Government⁹³ and Members of the Parliament⁹⁴ was noted by GRECO⁹⁵ and some steps have been taken in order to address these recommendations⁹⁶. Revolving doors rules have not been strengthened and remain narrow in scope⁹⁷. The provision forbidding officials to accept employment in the private sector for a period of 12 months after the end of the public service⁹⁸ has been considered too short by GRECO, which also recommended giving the Commission for the Prevention of Conflicts of Interests a mediating role in this area.

Code of Ethics for state level civil servants is in place, however ethics codes at the local and regional level are largely lacking. Code of Ethics for state level civil servants is in place since 2011⁹⁹. However, at local level, civil servants have their own Code of Ethics only if the local/regional government has adopted one¹⁰⁰. According to the draft proposal of the Anti-Corruption Strategy 2021-2030 there are 142 Code of Ethics in force at local and regional government level. The Strategy envisages to increase this number to 576 in 2030.

⁹⁰ On 3 February 2021, High Administrative Court issued a press release regarding its case law on conflict of interest stating that administrative courts are competent to assess the legality of decisions of the Commission for the Prevention of Conflicts of Interest and ensure legality, but also to provide judicial protection of the rights and legal interests of natural and legal persons and other parties violated by individual decisions or actions of public bodies. The Court also pointed out that the fight against corruption does not mean that the courts must uncritically and unconditionally assess as lawful all decisions of the Commission, because that would make the above-mentioned role of administrative courts in the control of the legality of decisions made by public bodies meaningless. High Administrative Court, Press release of 3 February 2021.

On 14 May 2021, the State Attorney's Office rejected the Commission's initiative regarding the High Administrative Court's judgment of December 2020 due to the fact that the person in question, the mayor of Zagreb, has since passed away.

⁹¹ Judgment of the High Administrative Court of 27 May 2020, Usz – 2889/20-2.

⁹² 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 11.

⁹³ GRECO, Fifth Evaluation Round: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, 24 March 2020, pp. 15-16.

⁹⁴ GRECO, Fourth Evaluation Round: Fourth Evaluation Round, Addendum to the Second Compliance Report Croatia, Addendum to the Second Compliance Report Croatia, 21 October 2020, p. 3.

⁹⁵ Preparatory work to establish the Code of Ethics for Members of the Parliament and the Code of Ethics for Members of the Government are ongoing.

⁹⁶ The working group in charge of drafting the Code of Ethics for Members of the Parliament sent the draft to the Committee on the Constitution, Rules of Procedure and Political System after discussion at the Presidency session.

⁹⁷ GRECO, Fifth Evaluation Round: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, p. 25.

⁹⁸ Art. 20 of the Law on the Prevention of Conflict of Interests states that officials cannot accept employment from an entity with which they had direct contact for a period of 12 months after the end of service.

⁹⁹ Etički kodeks državnih službenika, Official Gazette 40/201.

¹⁰⁰ Draft proposal of the Anti-Corruption Strategy 2021-2030 p 64.

Some progress has been made since the 2020 Rule of Law Report in the area of lobbying activities where a comprehensive legislation remains to be introduced¹⁰¹. The Government programme for 2020-2024 and the draft proposal of the Anti-Corruption Strategy 2021-2030 envisage the adoption of a comprehensive regulation. A working group has been established by the Ministry of Justice for that purpose¹⁰². The need to regulate lobbying activities was also highlighted by GRECO, as its recommendations in this area are still not implemented¹⁰³.

A high number of appeals have been filed in public procurement procedures, which remain a high-risk area for corruption. The draft proposal of the Anti-Corruption Strategy 2021-2030 identifies public procurement as a vulnerable area for corruption risks¹⁰⁴. The State Commission for Supervision of Public Procurement Procedures is an independent decision-making body (tribunal) responsible for reviewing appeals regarding public procurements¹⁰⁵. Its workload has increased over the years: in 2020, 66% of public procurements were under appeal procedure before the State Commission for Supervision of Public Procurement Procedure¹⁰⁶. The crucial role of the State Commission for Supervision of Public Procurement Procedures is also recognised in the draft Anti-Corruption Strategy which envisages a further strengthening of its legal framework¹⁰⁷. It is important that the reform of the State Commission safeguards its independence, particularly regarding the appointment and discipline of the members of the State Commission, in line with EU law and taking into account Council of Europe recommendations¹⁰⁸. According to the draft proposal of the Anti-Corruption Strategy 2021-2030, the public procurement legislative framework will also be improved by strengthening the oversight mechanism and the transparency of the procedures¹⁰⁹.

¹⁰¹ The absence of such detailed rules for members of Parliament and top executive functions was already noted in the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 11.

¹⁰² Written contribution by Croatian Government in the context of the country visit to Croatia, Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 46 and the Government of the Republic of Croatia, Programme of the Government 2020-2024, p. 45. The working group will be composed of representatives of the Government of the Republic of Croatia, State Attorney's Office, Information Commissioner, Commission for Resolution of Conflicts of Interest, Agency for Personal Data Protection, Croatian Lobbyists' Association, civil society organizations Transparency International and GONG, academics. The Croatian Employers' Association and trade unions might also be invited to participate in the working group.

¹⁰³ GRECO, Fifth Evaluation Round: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, 24 March 2020, p.20.

¹⁰⁴ Draft proposal of the Anti-Corruption Strategy 2021-2030 p 23.

¹⁰⁵ According to article 8 of the Law on the State Commission for Supervision of Public Procurement Procedures, the Government proposes, based on public vacancy, the candidates to Parliament for appointment as members of the State Commission without the involvement of an independent body. Parliament would also decide on potential disciplinary responsibility of the members.

¹⁰⁶ Information reported by the State Commission for Supervision of Public Procurement Procedures in the context of the country visit to Croatia. The State Commission for Supervision of Public Procurement Procedure 2020 annual report is not available yet.

¹⁰⁷ Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 49.

¹⁰⁸ CM/Rec(2010)12, paras. 66 and 69. According to EU law, the requirement of independence means that the disciplinary regime regarding judges must display the necessary guarantees in order to prevent that the regime is used as a system of political control of the content of judicial decisions. E.g. Court of Justice of the European Union, judgment of 24 June 2019, *Commission v. Poland*, C-619/18, ECLI:EU:C:2019:531, para. 77, judgment of 25 July 2018, *LM*, C-216/18 PPU, ECLI:EU:C:2018:586, judgment of 5 July 2016, *Ognyanov*, C-614/14, ECLI:EU:C:2016:514, and order of 12 February 2019, *RH*, C-8/19, ECLI:EU:C:2019:110.

¹⁰⁹ Draft proposal of the Anti-Corruption Strategy 2021-2030 p. 51.

The Ombudsperson's Office has started receiving external reports from whistleblowers. Following the approval of the Protection of Reporters of Irregularities Act¹¹⁰, since 2019 the Ombudsperson's Office can receive reports on possible misconducts or wrongdoings. As reported by the Ombudsperson's Office, 45 complaints were treated in 2020¹¹¹. In the same period several high profile cases on corruption were discovered after reports made by whistleblowers¹¹².

In order to mitigate corruption risk in the procurement area during the COVID-19 pandemic new specific trainings for officials have been delivered¹¹³. As regards the prosecution only a few activities of the State Attorney's Office were delayed due to the pandemic, and the law enforcement authorities worked in two shifts to minimize the risk of contacts¹¹⁴. Furthermore, the Ministry of the Economy and Sustainable Development issued specific recommendations aiming at strengthening the public procurement system in the context of the pandemic¹¹⁵.

III. MEDIA PLURALISM AND MEDIA FREEDOM

Freedom of expression and information are enshrined in the Constitution¹¹⁶, while media plurality is ensured by various laws, notably the Electronic Media Act and the Media Act. They provide for the independent media regulatory authority, the Agency for Electronic Media (AEM), and guarantee that media ownership information is available to the public. A framework for the access to information and public documents is generally in place¹¹⁷. The revision of the Electronic Media Act is pending adoption to transpose the revised Audiovisual Media Services Directive (AVMSD)¹¹⁸. The Government moreover intends to update the second pillar of the Croatian media law framework, the Media Act, with a proposal expected by the end of 2021¹¹⁹.

New qualification requirements are envisaged for the potential members of the governing body of the Agency for Electronic Media. The agency is led by a Director who

¹¹⁰ Protection of Reporters of Irregularities Act.

¹¹¹ 13 of these were submitted in 2019 but the cases continued in 2020.

¹¹² Telegram, *Ovo je bomba. Telegram otkriva tajnu snimku: ovako HDZ-ov gradonačelnik Požege diktira koje firme moraju dobiti poslove*, 12 January 2021; Večernji list, *Dosje o Bandičevoj poskupjeljoj Žičari: Laži, aneksi, tužbe ljubavne afere, osvete...*, 29 November 2020; Večernji list, *USKOK i PNUSKOK provode izvide o sljemenskoj žičari*, 27 November 2020.

¹¹³ Input from Croatia for the 2021 Rule of Law Report p. 24.

¹¹⁴ Information reported by PNUSKOK in the context of the country visit to Croatia.

¹¹⁵ Recommendation from the Ministry of the Economy, Entrepreneurship and crafts on the issue of prescribing and providing tender guarantees in the new situation caused by the corona virus outbreak, (<http://www.javnabava.hr/default.aspx?id=7221>); and Recommendation from the Ministry of the Economy, Entrepreneurship and crafts concerning the implementation of a public binding process in the new situation caused by the coronavirus outbreak, (<http://www.javnabava.hr/default.aspx?id=7220>).

¹¹⁶ Constitution of the Republic of Croatia, Art. 38.

¹¹⁷ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia.

¹¹⁸ Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

¹¹⁹ Input from Croatia for the 2021 Rule of Law report, p. 28.

In the 2021 World Press Freedom Index, Croatia ranks 56th globally and 22nd among EU Member States (Reporters without Borders, Croatia). The 2021 Media Pluralism Monitor indicates medium risks in the area of fundamental protection, social inclusiveness and political independence, with a high risk for the market plurality indicator (2021 Media Pluralism Monitor, p. 8).

also heads the Council for Electronic Media, the governing body of the agency. Its financial independence is ensured as it is bound to the income of electronic media services¹²⁰. The members of the Council are appointed by the Parliament by simple majority, following a proposal by the Government, based on a public call for nominations¹²¹. The fact that members of the Council may be re-appointed for several five-year terms as well as the decisive influence of the parliamentary majority in the appointment of the body have been raised as potentially compromising the political independence of the regulator¹²². With the draft Act on Electronic Media, the Government intends to introduce further requirements as regards the education, skills and professional experience of potential members of the Council¹²³.

There is no independent, self-regulatory media council to represent both the press and news media sector as well as publishers and journalist associations. The self-regulatory Code of Ethics of the Croatian Journalists' Association is limited in scope to the journalists represented in the association, and does not seem to be sufficiently well recognised to protect journalists in practice¹²⁴. The Ministry for Culture and Media is considering to support the constitution of an independent, self-regulatory media council in the context of the proposal for a new Media Act¹²⁵.

Further improvements of the framework for the transparency of media ownership information are planned. In its draft for the revised Electronic Media Act, the Government intends to make the available information more comprehensive by requiring to include an extract from the register of ultimate beneficial ownership and requiring the registration of electronic publications¹²⁶. Currently, information on media ownership concerning audiovisual and digital media is made available on the website of the Agency for Electronic Media. Information on print media is collected by the Chamber of Commerce and is published in the Official Journal¹²⁷. The 2021 Media Pluralism Monitor indicator on transparency of media ownership shows a medium risk, pointing out that the identity of the ultimate beneficial owner can be concealed under the current framework¹²⁸. Stakeholders claim that the register maintained by the Agency for Electronic Media may have gaps as regards the coverage of

¹²⁰ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 9. 2021 Media Pluralism Monitor, p. 10.

¹²¹ Input from Croatia for the 2021 Rule of Law report, p. 28.

¹²² Contribution from the Centre for Peace Studies and the Croatian Platform for International Citizen Solidarity for the 2021 Rule of Law Report, pp. 3-4; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 13; Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, pp. 14-15. To be noted that, until now, three members of the Council have been reappointed by different parliamentary majorities.

¹²³ Input from Croatia for the 2021 Rule of Law report, p. 28.

¹²⁴ 2021 Media Pluralism Monitor, p. 11.

¹²⁵ Input from Croatia for the 2021 Rule of Law report, p. 28.

¹²⁶ Input from Croatia for the 2021 Rule of Law report, p. 30.

¹²⁷ Information received in the context of the country visit to Croatia; Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, p. 17.

¹²⁸ 2021 Media Pluralism Monitor, p. 10. The Media Pluralism monitor shows a high risk for the related indicators on news media concentration, online platforms concentration and competition enforcement and media viability.

electronic publications¹²⁹. According to the 2021 Media Pluralism Monitor, in Croatia we observe high market shares of leading media outlets in different market segments¹³⁰.

While there are basic rules in place governing state advertising¹³¹, stakeholders report that state advertising often undermines the political independence of media outlets, notably at local level¹³². The Electronic Media Act stipulates that public institutions and predominately state-owned companies are required to use 15% of their annual funds earmarked for the promotion of their services or activities, for advertising in regional or local television or radio programmes¹³³. The 2021 Media Pluralism Monitor concludes that under the current framework “*broadcasters [are] often dependent on regional and local politics while newspapers often support policies and viewpoints in line with the political leaning of ownership*”¹³⁴. In particular, regional and local media outlets are often considered heavily dependent on the advertising from local authorities, creating potential to undermine editorial independence¹³⁵.

Croatian authorities took some media-specific measures to mitigate the impact of COVID-19 pandemic. As a result of the pandemic, newspaper sales and advertising revenues dropped, and many media outlets cut wages and laid off staff¹³⁶. Freelance journalists have been particularly affected¹³⁷. The Trade Union of Croatian Journalists considers that the working conditions of journalists have deteriorated considerably during the pandemic¹³⁸. Media companies were able to benefit from general relief programmes of the Government. Reacting to the calls for aid from stakeholders, the Government issued a public call via the Agency for Electronic Media to support freelance journalists and part-time media workers¹³⁹.

Access to information is ensured by law, but considerable delays in the processing of requests from journalists by public authorities persist¹⁴⁰. The implementation of the Right

¹²⁹ Contribution from the Centre for Peace Studies and the Croatian Platform for International Citizen Solidarity for the 2021 Rule of Law Report, p. 5.

¹³⁰ 2021 Media Pluralism Monitor, pp. 10-11. According to the data assessed in the Media Pluralism Monitor, “[t]op 4 audio-visual media owners accounted for 96 percent of the market in 2019. In 2020, the top 4 audio-visual media owners accounted for 56 percent of the audience share. The Top 4 radio owners held a 70 percent market share in 2019, and 39 percent of the audience share in 2020. The Top 4 newspaper owners held a 71 percent market share in 2019” (2021 Media Pluralism Monitor, p. 10).

¹³¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 13.

¹³² Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, pp. 16-17. Information received in the context of the country visit to Croatia.

¹³³ The draft for a revised Electronic Media Act intends to extend this to electronic publications (with an obligation of disclosing relevant information online).

¹³⁴ 2021 Media Pluralism Monitor, p. 12.

¹³⁵ Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, pp. 16-17. Information received in the context of the country visit to Croatia.

¹³⁶ Information provided by the Trade Union of Croatian Journalists in the context of the country visit to Croatia.

¹³⁷ Reporters without Borders, Croatia; Information received in the context of the country visit to Croatia.

¹³⁸ Information provided by the Trade Union of Croatian Journalists in the context of the country visit to Croatia.

¹³⁹ Input from Croatia for the 2021 Rule of Law report, p. 29; Information provided by the Croatian Ministry of Culture and Media in the context of the country visit to Croatia.

¹⁴⁰ 2021 Media Pluralism Monitor, p. 9; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p.15; Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, p. 20.

of Access to Information Act¹⁴¹ is ensured by the Information Commissioner and its office. In a significant number of cases, the direct intervention of the Office of the Information Commissioner is required to ensure the follow up on access of information requests by journalists¹⁴². The 2021 Media Pluralism Monitor indicates a medium risk related to the protection of the right to information¹⁴³. GRECO has recommended that measures should be taken to strengthen the enforcement of decisions of the Information Commissioner in line with the Act¹⁴⁴.

A legal framework for the protection of journalists is in place, but journalists remain a target of hate speech and threats, both online and offline¹⁴⁵. A number of prominent cases have concerned verbal attacks by politicians against journalists, highlighting tensions in the relationship between some politicians and the media¹⁴⁶. Furthermore, serious concerns were expressed by stakeholders regarding the alleged dismissal or threats of dismissal by the Croatian Radio-Television against the representatives of the Trade Union of Croatian Journalists and the Croatian Journalists' Association¹⁴⁷. Since October 2020, the Council of Europe's Platform to promote the protection of journalism and safety of journalists has registered five alerts relating to events in Croatia, notably concerning instances of threats or insults against journalists as well as a defamation lawsuit against a media outlet¹⁴⁸. While there were instances of physical attacks against journalists in 2020, this does not seem to be a widespread concern, and police authorities follow-up on such cases¹⁴⁹.

Strategic lawsuits against public participation (SLAPPs) targeting journalists continue to be a serious concern¹⁵⁰. A survey by the Croatian Journalists' Association in April 2021,

¹⁴¹ Act on the Right of Access to Information.

¹⁴² Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, p. 20; Information provided by the Office of the Information Commissioner in the context of the country visit to Croatia.

¹⁴³ 2021 Media Pluralism Monitor, p. 9.

¹⁴⁴ GRECO, Fifth evaluation round - Evaluation Report on Croatia on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, 24 March 2020, p.19.

¹⁴⁵ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 14; Reporters without Borders, Croatia; European Centre for Press and Media Freedom, Platform on mapping media freedom; 2021 Media Pluralism Monitor, p. 15.

¹⁴⁶ Information received in the context of the country visit to Croatia; European Centre for Press and Media Freedom, Platform on mapping media freedom; Council of Europe, Platform to promote the protection of journalism and safety of journalists (2021), Croatian President Milanovic verbally attacked HRT journalists, no. 89/2021.

¹⁴⁷ Council of Europe, Platform to promote the protection of journalism and safety of journalists (2021), President of Croatian Journalists' Union Maja Sever Threatened with Dismissal, no. 40/2021; Croatian Journalists' Association, Bačić's persecution of the leaders of the CJA and the Journalists' Union is a new blow to media freedom, 13 March 2021.

¹⁴⁸ Council of Europe, Platform to promote the protection of journalism and safety of journalists. At the time of writing, Croatian authorities had provided replies to three out of the five cases (with the latest two cases having been registered respectively in April and May 2021). Four of the cases fell into the category "Harassment and intimidation of journalists" and one case was categorised under "Other acts having chilling effects on media freedom".

¹⁴⁹ Contribution from the Osservatorio Balcani Caucaso Transeuropa for the 2021 Rule of Law Report, p. 9; Information received in the context of the country visit to Croatia.

¹⁵⁰ Information received in the context of the country visit to Croatia; Contribution from Human Rights House Zagreb for the 2021 Rule of Law Report, p. 8.

counted 924 active lawsuits against journalists and the media in Croatia¹⁵¹ (compared to 905 in 2020¹⁵²). The association highlights that these lawsuits have a strong impact on the concerned media outlets, threatening in particular the existence of smaller, local media outlets and freelance journalists¹⁵³. Examples of such cases include lawsuits against journalists by prominent politicians or public officials¹⁵⁴. While courts often rule in favour of the concerned journalists¹⁵⁵, SLAPPs pose a significant financial risk to journalists and can have an important intimidating effect. Many of the SLAPP cases against journalist are based on charges of defamation¹⁵⁶. Stakeholders have called upon the Government to address this issue, including to decriminalise defamation¹⁵⁷. Croatian authorities have set up an expert group to advise on policy initiatives to counter SLAPPs.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Croatia has a unicameral parliamentary system of government, in which the Constitutional Court can carry out *ex-post* constitutional reviews, including in concrete cases based on a constitutional complaint. Draft laws can be tabled by any member of the Parliament or the Government. The People's Ombudsperson, who is responsible for the promotion and protection of human rights and freedoms, the Information Commissioner, and the Ombudsperson for Gender Equality¹⁵⁸, which fulfils the role of the equality body, are all independent bodies that play a role in the system of checks and balances.

While public consultations are embedded in the legislative procedures, citizen participation is perceived by stakeholders to be rather formalistic than substantive. Public consultations are conducted through the central state consultations portal “e-Consultations”. The Government Legislation Office coordinates public consultations and administers the e-Consultations portal. The number of public consultations conducted in a year has been mostly increasing¹⁵⁹. As part of its regular activities, the Office of the Information Commissioner monitored how the consultations were conducted in 2020¹⁶⁰. As

¹⁵¹ Croatian Journalists' Association, At least 924 lawsuits against journalists and the media currently active in Croatia, 16 April 2021.

¹⁵² Croatian Journalists' Association, CJA's poll: over 905 lawsuits against journalists and the media currently active in Croatia, 1 May 2020.

¹⁵³ Croatian Journalists' Association, At least 924 lawsuits against journalists and the media currently active in Croatia, 16 April 2021.

¹⁵⁴ E.g. Council of Europe, Platform to promote the protection of journalism and safety of journalists (2021), Defamation Lawsuit against INDEX d.o.o., no. 80/2021; European Centre for Press and Media Freedom, Platform on mapping media freedom; Croatian Journalists' Association, At least 924 lawsuits against journalists and the media currently active in Croatia, 16 April 2021.

¹⁵⁵ Reporters without Borders, Croatia. Information received in the context of the country visit to Croatia.

¹⁵⁶ 2021 Media Pluralism Monitor, p. 9; Croatian Journalists' Association, At least 924 lawsuits against journalists and the media currently active in Croatia, 16 April 2021; Information received in the context of the country visit to Croatia.

¹⁵⁷ Contribution from the Croatian Journalists' Association and the Trade Union of Croatian Journalists for the 2021 Rule of Law Report, p. 18; Information received in the context of the country visit to Croatia.

¹⁵⁸ It should be noted that the mandate of the Ombudsperson for Gender equality can be terminated if his/her annual report is rejected in the Parliament.

¹⁵⁹ In 2019, a total of 1 031 public consultations were held, a growing number over the years (in 2012, there were only 144 consultations). In 2020, a total of 761 consultations were conducted through the portal, in which 7 211 users participated. A total of 21 798 comments were received, of which, until May 2021, 3 321 comments were accepted, 2 057 were partially accepted, 4 902 were not accepted, 10 519 were noted, and 999 remained unanswered. The average length of consultation in 2020 for all types of regulations was 17 days. Data from the Government Office for Legislation.

¹⁶⁰ (<https://www.pristupinfo.hr/dokumenti-i-publikacije/izvjesca-o-provedbi-zppi/>)

in previous years, irregularities were most often related to the duration of the consultation and the lack of justification for shortening the deadline. Moreover complaints are also related to the non-publication of the report on the conducted consultation, and to the non-adoption or non-publication of public consultation plans. Furthermore, stakeholders perceive the public consultations, including with civil society and the non-governmental organisations, to be formalistic, rather than substantive¹⁶¹. In 2021, improvements to the e-Consultations Portal are planned, aimed mainly at the expanding and upgrading the existing functionalities.

Implementation of regulatory policy is planned to be improved. In March 2021, the Government Legislation Office started a technical support project¹⁶² to enhance the analytical capacity of applying appropriate methodological tools and processes for the implementation of the *ex-ante* and *ex-post* regulatory impact assessments (RIA). The project would disseminate the application of related methodologies and processes in the most relevant public bodies, by carrying out trainings among key actors and stakeholders in the regulatory impact assessment system, such as line ministries. The aim is to improve the overall capacity and regulatory performance, however issues of non-inclusion of secondary legislation and limited resources at local and regional level may remain persistent¹⁶³. Shortcomings in the implementation of RIA also remain. RIA are mainly conducted by the Ministries, while the Government Legislation Office provides trainings in methodology and legislative drafting. The Government Legislation Office's mandate is limited to the scrutiny of impact assessments for primary legislation. As a result, subordinate regulations go unchecked, except for the SME test¹⁶⁴. Moreover, the public authorities, and in particular local and regional authorities, lack the human resources or experience to effectively implement regulatory policy¹⁶⁵.

COVID-19 pandemic measures have been adopted on the basis of twice-amended law regarding infectious diseases. Croatia did not declare a state of emergency. Instead, measures to address the COVID-19 pandemic have been adopted on the basis of the Law on Protection of the Population from Infectious Diseases, and on the basis of the Law on the Civil Protection System, both of which have been amended twice since the start of the pandemic¹⁶⁶. The constitutionality and the legality of both, the amended legal framework and of the specific restrictive measures introduced, have been challenged before the Constitutional Court, which has confirmed their compatibility with the Constitution. The Court also dealt with the motions submitted by individuals requesting constitutionality and legality reviews of certain linked decisions adopted by the Civil Protection Authority. The Court confirmed their legality, recognising that they had a legitimate objective, which was to protect lives and health of the citizens, and were necessary to attain that objective. In separate

¹⁶¹ Contribution from Centre for Peace Studies (CMS) and Croatian Platform for International Citizen Solidarity (CROSOL) for the 2021 Rule of Law Report, p. 8. Contribution from the European Civic Forum (GONG) for the 2021 Rule of Law Report, p. 19. Contribution from ILGA-Europe for the 2021 Rule of Law Report, p. 18. Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, p. 82.

¹⁶² Technical Support Instrument 21HR31, Strengthening the implementation of regulatory impact assessment.

¹⁶³ Regulatory Policy in Croatia: Implementation is Key, OECD Reviews of Regulatory Reforms, 2019, p. 105.

¹⁶⁴ Regulatory Impact Assessment Act, Regulation of the Regulatory Impact Assessment Implementation, Regulation on the SME Test Implementation, and Strategy on the Regulatory Impact Assessment.

¹⁶⁵ Regulatory Policy in Croatia: Implementation is Key, OECD Reviews of Regulatory Reforms, 2019, p.105.

¹⁶⁶ Parliament adopted the amendments in April and December 2020.

proceedings instigated on its own initiative, it established that one measure adopted by the Civil Protection Authority did not meet the request of proportionality¹⁶⁷.

The Constitutional Court ruled that the Parliament should find alternative ways to guarantee the participation of parliamentarians during the COVID-19 pandemic. Parliament continued working during the COVID-19 pandemic, as well as in the aftermath of the December 2020 earthquake. In April 2020, the Rules of the Procedures were amended, limiting in special situations the number of the members of Parliament who can simultaneously sit in the voting chamber, and further shortening the length of their debates. In October 2020, the Constitutional Court declared these amendments as unconstitutional, stating that there are technical possibilities to organise the work of the Parliament so that the participation of the members of Parliament in plenary sessions and other debates would not be restricted. In November 2020, a new amendment to the Rules of Procedures was adopted to ensure that all members of Parliament will be able to participate in the debates. Plenary sessions are organised in several chambers simultaneously, also by using remote access. However, the IT system does not allow for the recording of the votes cast by individual members of Parliament, and the remote participation is only available for those members who are in self-isolation or isolation. As regards the parliamentary oversight of COVID-19 measures, in December 2020, the Parliament requested the Government to submit to it, three times per year, a report on the effects of the implementation of the Act on the Protection of the Population against Contagious Diseases, as long as the decision on the proclamation of the epidemic remains in force¹⁶⁸. In January 2021, the Government submitted the first report, covering the period from March 2020 to January 2021, which the Parliament adopted by majority vote. As regards the legislative process, between January 2020 and March 2021, 51% of the total number of laws were adopted using the urgent procedure, which presents a decrease compared to 2019¹⁶⁹. A significant share of these laws related to the COVID-19 pandemic.

The People's Ombudsperson started exercising its new powers. In 2020, new Rules of Procedures of the Ombudsperson were adopted by the Parliament, which created a new department within the Ombudsperson for the protection of whistleblowers followed by the appointment of one additional staff member in charge of these tasks¹⁷⁰. According to the People's Ombudsperson, the Ministry of the Interior continues to refuse the Ombudsperson access to information on the treatment of irregular migrants¹⁷¹. In this regard, the issue of enabling access to information to the representatives of the Office of the Ombudsperson, based on the interpretation of relevant national law, continues to be subject to discussion

¹⁶⁷ Judgment of the Constitutional Court of 14 September 2020, U-II-2379/2020.

¹⁶⁸ Input from Croatia for the 2021 Rule of Law Report, p. 36.

¹⁶⁹ While the share of such laws decreased from about 82% in 2014 to 28% in 2016, it increased again to about 56% in 2019.

¹⁷⁰ Contribution from the ENNHRI for the 2021 Rule of Law Report, p. 78.

¹⁷¹ The Ombudsperson is, in the performance of the National Preventive Mechanism mandate, authorized under Articles 4, 19 and 20 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and Article 3 and 5 of the Law on National Preventive Mechanism to visit places where there are or could be detained persons unannounced and freely access information about their treatment. This practice was reported to Parliament on several occasions, and in the 2019 and 2020 Annual Reports the Ombudsperson issued a recommendation to the Ministry of Interior to ensure unannounced and free access to data on irregular migrants to the staff of the Office of the Ombudsperson and the National Preventive Mechanism in line with provisions of the OPCAT, Law on National Preventive Mechanism and the Ombudsperson Act. Contribution from the ENNHRI for the 2021 Rule of Law Report, p. 78-79.

between the Ombudsperson and the Ministry of the Interior. Recommendations of the European Network of National Human Rights Institutions¹⁷² to ensure that national institutional structures, such as the Ombudsperson, are given access to information in order to ensure independent, proper and expeditious investigations, are particularly relevant in the light of the allegations about pushbacks at external borders¹⁷³, with a view to ensuring that fundamental rights are at all times respected. The Croatian Authorities, in cooperation with the European Commission, EU agencies and relevant stakeholders including the Ombudsperson, have established an Independent Monitoring Mechanism for border control, which entered into force on 8 June 2021.

The Government is still preparing the National Plan for Creating and Enabling Environment for the Civil Society Development 2021-2027¹⁷⁴. As indicated in the 2020 Rule of Law report, the envisaged National Plan intends to further improve the legal, financial and institutional support system for the activities of civil society organisations, which are considered important for the socio-economic development of Croatia, and in shaping and implementing relevant EU and international policies. The Government Office for Cooperation with NGOs plans to involve, through a public call, civil society organisations in the expert working group. The Government Office continues to organise the NGO Open Days¹⁷⁵. The civic space in Croatia is considered to be narrowed¹⁷⁶. During 2020, the Office of the Ombudsperson opened a case in relation to civic space and human rights defenders in the context of COVID-19 pandemic¹⁷⁷.

¹⁷² The National reports drafted by the French NHRI (CNCDH), the Croatian, Greek, Serbian and Slovenian National Human Rights Institutions, [date – to be updated].

¹⁷³ Asylum Information Database, Country Report Croatia, 2020 update.

¹⁷⁴ 2020 Rule of Law Report, country chapter for Croatia, pp. 16-17.

¹⁷⁵ Input from Croatia for the 2021 Rule of Law Report, p. 39-40.

¹⁷⁶ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹⁷⁷ Contribution from the ENNHRI for the 2021 Rule of Law Report, p. 80.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.*

Association of Judges (2021), *Press release of 29 April 2021*, (<http://uhs.hr/archives/1544>).

Asylum Information Database, *Country Report Croatia, 2020 update*, (https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-HR_2020update.pdf).

Centre for Peace Studies and the Croatian Platform for International Citizen Solidarity (2021), *Contribution for the 2021 Rule of Law Report*.

Council of Europe (2021), Platform to promote the protection of journalism and safety of journalists, *President of Croatian Journalists' Union Maja Sever Threatened with Dismissal, no. 40/2021*.

Council of Europe, Platform to promote the protection of journalism and safety of journalists (2021), *Defamation Lawsuit against INDEX d.o.o., no. 80/2021*.

Croatian Journalists' Association (2021), *Bačić's persecution of the leaders of the CJA and the Journalists' Union is a new blow to media freedom*, 13 March 2021, (<https://hnd.hr/eng/bacic-s-persecution-of-the-leaders-of-the-cja-and-the-journalists-union-is-a-new-blow-to-media-freedom>).

Croatian Journalists' Association and the Trade Union of Croatian Journalists (2021), *Contribution for the 2021 Rule of Law Report*.

Croatian Journalists' Association (2020), *CJA's poll: over 905 lawsuits against journalists and the media currently active in Croatia*, 1 May 2020, (<https://hnd.hr/eng/cja-s-poll-over-905-lawsuits-against-journalists-and-the-media-currently-active-in-croatia>).

Croatian Journalists' Association (2021), *At least 924 lawsuits against journalists and the media currently active in Croatia*, 16 April 2021, (<https://hnd.hr/eng/cja-survey-at-least-924-lawsuits-against-journalists-and-the-media-currently-active-in-croatia>).

Croatian Parliament, *The Anti-Corruption Strategy 2015-2020*, 27 February 2015, (https://narodne-novine.nn.hr/clanci/sluzbeni/2015_03_26_545.html).

Draft Anti-Corruption Strategy 2021-2030 as published for public consultation, 25 June 2021, (<https://esavjetovanja.gov.hr/ECon/MainScreen?entityId=16930>).

Ethical Council of the Supreme Court, *The Ethics Council of the Supreme Court of the Republic of Croatia has decided on the complaints of judges in the procedure of assessing the existence of a violation of the Code of Judicial Ethics - Press release of 31 May 2021*, (<http://www.vsrh.hr/EasyWeb.asp?pcpid=560>);
;
<http://www.vsrh.hr/CustomPages/Static/HRV/Files/2021dok/Priopcenja/Ev%205-2021-3.pdf>;
;
<http://www.vsrh.hr/CustomPages/Static/HRV/Files/2021dok/Priopcenja/Ev%207-2021-4.pdf>;
;
<http://www.vsrh.hr/CustomPages/Static/HRV/Files/2021dok/Priopcenja/Ev%208-2021-3.pdf>;
;
<http://www.vsrh.hr/CustomPages/Static/HRV/Files/2021dok/Priopcenja/Ev%208-2021-4.pdf>).

European Civic Forum (GONG) (2021), *Contribution for the 2021 Rule of Law Report*.

European Commission (2019-2021), *EU Justice Scoreboard*.

European Network of National Human Rights Institutions (2021), *Contribution for the 2021 Rule of Law Report*.

General Assembly of the Supreme Court (2021), *Press release of 18 May 2021*, (<http://www.vsrh.hr/EasyWeb.asp?pcpid=560>).

General Assembly of the Supreme Court of Croatia (2021), *Press release of 26 March 2021*, (<http://www.vsrh.hr/EasyWeb.asp?pcpid=560>).

- GONG (2021), *Letter to GRECO: The Commission must not be destroyed*, 4 February 2021, (<https://www.gong.hr/en/good-governance/anti-corruption-policy/letter-to-greco-plenkovic-undermines-the-fight-aga/>).
- GRECO (2020), *Fifth evaluation round - Evaluation Report on Croatia on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies*, 24 March 2020, (<https://rm.coe.int/fifth-round-evaluation-report-on-croatia-preventing-corruption-and-pro/16809cff22>).
- GRECO (2020), *Fifth Evaluation Round: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies*, 24 March 2020, (<https://rm.coe.int/fifth-round-evaluation-report-on-croatia-preventing-corruption-and-pro/16809cff22>).
- GRECO, *Fourth Evaluation Round: Fourth Evaluation Round, Addendum to the Second Compliance Report Croatia, Addendum to the Second Compliance Report Croatia*, 21 October 2020, (<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a010c3>).
- High Administrative Court, *Press release of 3 February 2021*, (<https://sudovi.hr/sites/default/files/priopcenja/2021-02/Visoki%20upravni%20sud%20Republike%20Hrvatske%20-%20priop%C4%87enje%20za%20javnost%203.%20velja%C4%8De%202021.pdf>).
- Human Rights House Zagreb (2021), *Contribution for the 2021 Rule of Law Report*.
- ILGA-Europe (2021), *Contribution for the 2021 Rule of Law Report*.
- Judgment of the Constitutional Court of 14 September 2020, *U-II-2379/2020*, (https://narodne-novine.nn.hr/clanci/sluzbeni/full/2020_09_105_1969.html).
- Judgment of the Constitutional Court of 2 July 2019, *U-III-673/2018*, (<https://sljeme.usud.hr/usud/praksaw.nsf/fOdluka.xsp?action=openDocument&documentId=C12570D30061CE54C125842D00218646>).
- Judgment of the Constitutional Court of 23 March 2021, *U-I-1039/2021*, ([https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C12586A200446E08/\\$FILE/U-I-1039-2021%20i%20dr.pdf](https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C12586A200446E08/$FILE/U-I-1039-2021%20i%20dr.pdf)).
- Judgment of the Constitutional Court of 3 November 2020, *U-I-4658/2019*, ([https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C1258615004B58C4/\\$FILE/U-I-4658-2019%20i%20dr.pdf](https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C1258615004B58C4/$FILE/U-I-4658-2019%20i%20dr.pdf)).
- Judgment of the High Administrative Court of 10 December 2020, *Usž-2745/18-5*, (https://www.sukobinteresa.hr/sites/default/files/akti/2021/milan_bandic_p-130-14_presuda_visokog_upravnog_suda_republike_hrvatske.pdf).
- Judgment of the High Administrative Court of 12 September 2019, *Usž-1948/19-2*, (<https://www.sukobinteresa.hr/sites/default/files/akti/2019/p-73-18-19-27.pdf>).
- Judgment of the High Administrative Court of 27 May 2020, *Usž – 2889/20-2*, (https://www.sukobinteresa.hr/sites/default/files/akti/2021/andrej_plenkovic_p-381-18_presuda_visokog_upravnog_suda_usz-2889-20.pdf).
- Novi list (2021), *A new vacancy for the President of the Supreme Court has been published, the deadline for candidacies is 30 days*, 31 March 2021, (https://www.novilist.hr/novosti/hrvatska/raspisan-novi-poziv-za-predsjednika-vrhovnog-suda/?meta_refresh=true).
- Office of the President of the Republic (2021), *Press release of 8 March 2021*, (<https://www.predsjednik.hr/vijesti/predsjednik-republike-predlozio-je-zlatu-durdevic-za-predsjednicu-vrhovnog-suda-republike-hrvatske/>).

- Office of the President of the Republic (2021), *Press release of 25 March 2021*, (<https://www.predsjednik.hr/vijesti/ured-predsjednika-republike-hrvatske-uputio-dopis-drzavnom-sudbenom-vijecu/>).
- Osservatorio Balcani Caucaso Transeuropa (2021), Contribution for the 2021 Rule of Law Report.
- Supreme Court of Croatia (2021), *Press release of 18 May 2021*, (<http://www.vsrh.hr/EasyWeb.asp?pcpid=560>).
- Supreme Court of Croatia (2021), *Request from the President of the Supreme Court*, 5 March 2021, (<http://www.vsrh.hr/CustomPages/Static/HRV/Files/2021dok/Priopcenja/Prituzba-2021.pdf>).
- Telegram (2021), *Ovo je bomba. Telegram otkriva tajnu snimku: ovako HDZ-ov gradonačelnik Požege diktira koje firme moraju dobiti poslove*, 12 January 2021, (<https://www.telegram.hr/politika-kriminal/ovo-je-bomba-telegram-otkriva-tajnu-snimku-ovako-hdz-ov-gradonacelnik-pozege-diktira-koje-firme-moraju-dobiti-poslove/>).
- The National reports drafted by the French NHRI (CNCDH), the Croatian, Greek, Serbian and Slovenian National Human Rights Institutions, [date – to be updated], (<http://ennhri.org/rights-at-borders/>).
- Večernji list (2020), *Dosje o Bandićevoj poskupjeloj Žičari: Laži, aneksi, tužbe ljubavne afere, osvete...*, 29 November 2020, (<https://www.vecernji.hr/vijesti/dosje-o-bandicevoj-poskupjeloj-zicari-lazi-aneksi-tuzbe-ljubavne-afere-osvete-1449799>).
- Večernji list (2020), *USKOK i PNUSKOK provode izvide o sljemenskoj žičari*, 27 November 2020, (<https://www.vecernji.hr/vijesti/uskok-i-pnuskok-provode-izvide-o-sljemenskoj-zicari-1449498>).

Annex II: Country visit to Croatia

The Commission services held virtual meetings in April and May 2021 with:

- Ministry of Justice and Administration
- Ministry of Culture and Media
- Office for Cooperation with NGOs
- Government Legislation Office
- Supreme Court
- State Judicial Council
- State Attorney's Council
- State Attorney's Office (including USKOK-specialised anti-corruption prosecution)
- PNUSKOK - specialised anti-corruption police
- State Commission for Supervision of Public Procurement Procedures
- Commission for the Prevention of Conflicts of Interest
- Parliamentary National Council for Monitoring Anti-Corruption Strategy Implementation
- Government Council for the Prevention of Corruption
- Secretariat of the Parliament
- Agency for Electronic Media
- Office of the Information Commissioner
- Office of the Public Ombudsperson
- Trade Union of Croatian Journalists
- Croatian Journalists' Association
- Croatian Newspaper Publishers' Association
- State Audit Office
- Association of Judges (Judge Damir Kontrec)
- Bar Association
- GONG
- Centre for Peace Studies
- Human Rights House
- Crosol
- Peace Institute.

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

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe

- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU