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Xenophobia, Radicalism and Hate Crime in Croatia (2017)

In November 2015 central-left social-democratic government coalition led by the Prime Minister Zoran Milanović lost the elections to conservative coalition gathered around Croatian Democratic Party (HDZ). After a corruption scandal related to business of the major state owned oil company, which involved then vice-president of the government Tomislav Karamarko, extraordinary elections were held in September 2016 with HDZ entering the governing coalition with MOST.¹ Political stalemate, triggered by interparty ideological tensions and break-up of HDZ-MOST coalition, resulted in financial and strategic gap *vis-à-vis* national strategies dealing with discrimination or human rights protection, as well as the civil society organisations' state sponsorship.

Croatia entered the European Union (EU) in July 2013 and has adjusted or changed its legislation in accordance with the European provisions and requirements. In 2015 Croatia faced important migration flows towards the EU countries as part of the so called "Balkan route", and had to respond to humanitarian challenges both institutionally and socially. In this report, institutional changes and strategies are discussed with regards to asylum seekers and individuals seeking humanitarian protection. Moreover, citizens' attitudes and expression of racism and xenophobia are commented within the analysis of several surveys conducted in the past few years.

Apart from political and migration crisis, this report observes and analyses previously recognized phenomena related to xenophobia, racism and hate speech in Croatia. Such phenomena are put in relation to results obtained for the time period preceding year 2017. Therefore, this report's aim is not only to document the presence of, for example, certain forms of discrimination, but also deals with longitudinal temporal outcomes, i.e. tendencies of improvement or deterioration.

Changes in legislation

¹ Most nezavisnih lista is a movement founded by a number of mayors of (usually) small municipalities throughout Croatia. They represent themselves as centrist and a-ideological.

Anti-discrimination legislation

Prohibition of discrimination on basis of race, skin colour, gender, language, religion, political or any other belief, national or social origin, property, education, social status or other characteristics is regulated within the Constitution of Republic of Croatia. Nevertheless, Croatia adjusted its obligations with the European standards of human rights and discrimination prevention only during the EU membership negotiation process. According to the Croatian Government's Office for Human Rights and Rights of National Minorities (OHRRNM)² main legal provision regarding discrimination are Anti-Discrimination Act (ADA),³ Gender Equality Act (GEA),⁴ International Convention on Elimination of All Forms of Racial Discrimination, The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination and Convention against Discrimination in Education. Consequently, through ADA, Republic of Croatia's legislation prohibits discrimination on basis of race or ethnic origin, skin colour, sex, language, religion, political or other opinion, national or social origin, private property status, trade union membership, education, social status, marriage or family status, age, health condition, disability, genetic inheritance, gender identity, expression or orientation. The ADA defines the notion of discrimination, its various forms, applicability, as well as the mechanisms of judicial protection, jurisdiction of the Republic of Croatia Ombudsman⁵ and other Ombudspersons (Ombudswoman for Children, Ombudswoman for Persons with Disabilities, Ombudswoman for Gender Equality). Moreover, the burden of proof is in charge of the defendant, contrary to the previous legislation. In addition, joint complaint was introduced, enabling associations, organisations or institutions representing specific group, albeit not single individual, to file a complaint in case of violations of principles of equal treatment.

According to the Council of Europe's (CoE) European Commission against Racism and Intolerance (ECRI) 2018 report,⁶ the ADA does not explicitly include citizenship as a ground for discrimination. However, the judicial practice relies on EU Directives 2000/43/EC and 2000/78/EC in interpreting such form of discrimination. Moreover, the ADA does not expressly mention the duty of public authorities to promote equality, as it covers only punitive action in case of discrimination by public authorities (Article 8).

² <https://ljudskaprava.gov.hr/>

³ https://narodne-novine.nn.hr/clanci/sluzbeni/2008_07_85_2728.html

⁴ https://narodne-novine.nn.hr/clanci/sluzbeni/2003_07_116_1585.html

⁵ <http://ombudsman.hr/>

⁶ https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Croatia/Croatia_CBC_en.asp

Hate speech

In Croatian legislation hate crime is a criminal offence committed on the ground of, inter alia, race, colour, religion, national or ethnic background, language, disability, gender. The Republic of Croatia's legal system recognises two ways of punishing such crime: certain offences are explicitly qualitatively described and given higher imprisonment time compared to the same offence not having hate as *mens rea*. On the other hand, if an offence lacks a description in relation to hate crime, hate is treated as aggravating circumstance while prosecuting the offence.

Incitement to violence and hatred are persecuted through the Article 325 (1) of the Criminal Code (CC)⁷; however, there is no explicit reference to discrimination offences in the CC. Article 139, 147 and 149 respectively criminalise threats, insult and defamation. Possible grounds for discrimination are not explicitly numbered in the said articles, but article 87 (21) describing aggravating circumstances can be combined with other three articles. Amended version of the CC (2017) improves protection against hate crime as a new provision criminalising violent conduct in public places is added. In addition, creation of or leading a group which promotes racism is also described in the CC. Moreover, OHRRNM outlines Act on the Misdemeanours against Public Peace and Order as another legal mechanism for countering hate crime. Finally, ADA's Article 25 punishes offence of dignity with aim of provoking fear, hostile environment on ground of various forms of discrimination, while the Law on Prevention of Violence at Sporting Events and the Law on Public Gatherings can also serve as legal mechanism against hate crime.

Currently, there is no explicit legislation which prescribes obligation to suppress public financing of organisations or political parties which promote racism. In addition, present electoral model according to which members of national minorities have eight secured MP mandates in the Croatian Parliament is a matter of heated discussion in the public and political sphere.

National Strategies and Action Plans

⁷ Full text available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_125_2498.html

After the expiration of the previous National Plan for the Protection and Promotion of Human Rights (2013-2016),⁸ which included a wide range of provisions to fight racial discrimination and intolerance at many levels, there was a serious delay in adoption of the new plan due to political instability in the country. The National Plan for Combating Discrimination (2017-2022)⁹ was finally adopted on 1 December 2017. The plan foresees objectives and measures in matter of labour and employment, education, science and sport, social and family care, health protection, administration and judiciary, access to housing , public information and media and access to goods and services. Some measures tend to eliminate existing discriminatory practices, while others target more inclusive society for marginalised individuals and groups. There is also improvement in terms of prevention - one of the priorities of the Plan is to provide dedicated training on non-discrimination for several groups, including police and public officers, but also health and education employees. Moreover, in August 2016, the State Attorney's Office issued an instruction obliging all state attorneys to commit special attention and diligence in case of hate crimes.

However, even the current protection system has a room for significant improvement, especially because the potential victims of discrimination are scarcely informed about their rights, in addition to civil servants often not being familiar with the provisions of the ADA. Therefore, the work of NGOs in educating and "translating" the ADA to general public is extremely important, as the civil society organisations are the "entry points" to anti-discrimination measures for most citizens that suffered some sort discrimination. Even though public negotiations for drafting of the National Strategy for the Creation of An Enabling Environment for the Civil Society Development (2017.-2021.) were finalised in 2017, such strategy has not been adopted by the end of the year. Consequently, more than 10 years of good practice of institutional support for the civil society development, which included Government's Office for Cooperation with NGOs, National Foundation for the Civil Society Development and Council for Civil Society Development, was interrupted.

There is no unified state strategy adopted for all minorities. Since the adoption of the Constitutional Act on the Rights of National Minorities,¹⁰ the Government monitors implementation of said Act and reports to the Parliament. Previously, it issued the Action

⁸<https://pravamanjina.gov.hr/UserDocsImages/arhiva/15012016/Nacionalni%20program%20za%20C5%A1tite%20i%20promicanja%20ljudskih%20prava%20za%20razdoblje%20od%202013%20do%202016%20godine.pdf>

⁹<https://vlada.gov.hr/UserDocsImages//Sjednice/2017/11%20studeni/69%20sjednica%20Vlade%20Republike%20Hrvatske//69%20-%202011.pdf>

¹⁰ https://narodne-novine.nn.hr/clanci/sluzbeni/2002_12_155_2532.html

Plan (2011-2013)¹¹ for the implementation of the Constitutional Act on the Rights of National Minorities, and certain provision of the National Plan for the Protection and Promotion of Human Rights (2013-2016), dealing specifically with the problematique of national minorities. After the accession of the Republic of Croatia to the EU, once the external pressure had been relaxed, there is an increasing trend of intolerance and hate speech, accompanied with ever growing requests to limit rights of national minorities. In addition, even fifteen years after the adoption of the Constitutional Act, its implementation is still not complete. Nevertheless, positive step forward is definitely the issue of Operational programs for national minorities 2017.-2020¹² in August 2017. Finally, National plan for Combating Discrimination recognises underrepresentation of the members of national minorities in legislative and administrative bodies, yet it offers only to collect data about their employment rates.

In November 2012, the Croatian Government approved a National Roma Inclusion Strategy (NRIS) for the years 2013 to 2020,¹³ a main document for improvement of status and living conditions of Roma in Croatia. In 2013 the first Action Plan for the implementation of the NRIS was adopted for the period 2013-2015.¹⁴ Similarly to some other national strategic documents, period of political insecurity halted the adoption of new Action plan. Consequently, Committee for monitoring the implementation of the NRIS has not been functional from autumn 2015 to November 2017. Some provisions regarding support for the schooling of Roma children were introduced to the proposal of the 2018-2020 Action plan for the implementation of educational, scientific and technological strategies.

Anti-discriminatory measures addressing the LGBT community were so far described and monitored through the National Policy for Gender Equality (2011-2015), the National Plan for the Suppression of Discrimination (2008-2013) and the National Plan for the Protection and Promotion of Human Rights (2013-2016). Unfortunately, there is still no specific action plan to combat homophobia and National Plan for Combating Discrimination

¹¹ <https://mzo.hr/hr/akcijski-plan-za-provedbu-ustavnog-zakona-o-pravima-nacionalnih-manjina-izvjesce-o-provedbi>

¹² [https://pravamanjina.gov.hr/UserDocsImages/dokumenti/Zaklju%C4%8Dak%20Vlade%20RH%20i%20OP%20za%20nm%20\(3\).pdf](https://pravamanjina.gov.hr/UserDocsImages/dokumenti/Zaklju%C4%8Dak%20Vlade%20RH%20i%20OP%20za%20nm%20(3).pdf)

¹³ <https://www.zagreb.hr/UserDocsImages/arhiva/Nacionalna%20strategija%20za%20uklju%C4%8Divanje%20Roma%202013-2020.pdf>

¹⁴ https://pravamanjina.gov.hr/UserDocsImages/arhiva/Akcijski_plan_za_provedbu_NSUR_za_razdoblje%202013-2015.pdf

expressively mentions LGBT population only three times: in relation to labour, health and judiciary¹⁵.

Currently the most vulnerable group in Croatian society are asylum seekers and applicants of subsidiary protection. Republic of Croatia adopted Migration Policy for 2013-2015¹⁶ which guaranteed, inter alia, primary and secondary schooling free of charge. Due to a major change in migration routes, which passed through Croatia during the "Balkan route" towards the Western European countries, a new Action Plan for the integration of persons who have been granted international protection (2017-2019) was adopted in November 2017.¹⁷ Action Plan is almost entirely focused on social rights of refugees, which tends to depict immigrants as "social aid cases". Social care without social inclusion, though, should be accepted only as a short-lived financial help before desired integration into Croatian society. Subsidiary protection covers for two years standard welfare payment, accommodation, language course, the right to free legal aid the right to work. Nevertheless, due to a big gap in national action plans, language courses were not organised for each school semester; that proved to be a major problem in employability and everyday autonomy of the beneficiaries of subsidiary protection.

Finally, Government of the Republic of Croatia still did not adopt reports dealing with implementation of certain international provisions and acts, such as report on The International Covenant on Economic, Social and Cultural Rights or report on implementation of The International Convention on the Elimination of All Forms of Racial Discrimination.

Law enforcement practices

According to the data of the Ombudsman office, in 2017 there were 5203 files in total, out of which 3793 complaints for various forms of violations of rights.¹⁸ New cases opened in 2017 were 2533, out which 277 addressed specifically various forms of discrimination. Most of the cases for discrimination, both from 2017 and previous years, were initiated on specific request of citizens, alleged victims of discriminatory practices. Most

¹⁵<https://vlada.gov.hr/UserDocsImages//Sjednice/2017/11%20studeni/69%20sjednica%20Vlade%20Republike%20Hrvatske//69%20-%202011.pdf>

¹⁶ https://narodne-novine.nn.hr/clanci/sluzbeni/2013_03_27_456.html

¹⁷<https://vlada.gov.hr/UserDocsImages//Sjednice/2017/11%20studeni/67%20sjednica%20Vlade%20Republike%20Hrvatske//67%20-%202014.pdf>

¹⁸ <http://ombudsman.hr/hr/naslovna/novost/1308-stanje-ljudskih-prava-u-hrvatskoj-izvjesce-pucke-pravobraniteljice-za-2017>

cases of discrimination occur at the workplace (40%) while race, ethnic belonging or colour represent most common reasons of discrimination (17%). It is important to outline results of recent research that underlined that around 50% of survey participants were not aware of the existence of the ADA, which was nevertheless in force since 2009.

Citizens' complaints in 2017 were filed mostly before civic tribunals. There were 203 trials in 2017, out of which 56 started in 2017. In 2017, 43 cases were terminated - 22 with out-of-court settlement, 21 with legally binding judgement, yet only 7 in favour of the party filing complaint in the first place. The Ministry of Interior data for 2017 reveals that there was no joint complaint nor complaint for any serious violation, which can be interpreted as lack of interest of judicial mechanism to recognise certain cases as serious discrimination, or lack of capacity of NGOs to initiate such complaints.

There were 193 trials for minor offences, out of which 89 were filed in 2017. Effective decisions convicted 47% defendants and acquitted 40%, while the rest was resolved out of the court. Most frequent were the cases of harassment, punished mostly with the financial fine. Main reasons of harassment is national origin, social status and racial or ethnical identity. Most victims were of Serbian and Bosniak origin. The Serbian National Council (SNV) reported the increase in violence against Serbian minority since 2012, as a consequence to the implementation of policies prescribed by the Constitutional National Minority Rights Act, the Law on Use of Language and Writing of National Minorities in Republic of Croatia, and the Law on Education in Languages and Letters of National Minorities which enabled the use of Cyrillic script in public sphere. The SNV recorded cases of violence, damage to property, including religious sites and cemeteries..

During 2017, judicial processes were initiated pursuing the GEA, in particular Article 35, violation of gender equality principle on electoral lists for units of local administration. Even though certain political parties were put on trial, the punishment fines were below the prescribed limit.

There were only 15 procedures for criminal offences in matter of discrimination in Republic of Croatia, out of which 4 cases were initiated in 2017. Two cases resulted in legally binding judgement, one in acquittal and the other in conditional release. The most common legal mechanism used is the Article 325 of the CC, incitement to violence and hatred. In addition, during 2017, Ministry of Interior registered 25 cases as hate crime. Besides Article 325 of the CC which was used in 7 cases, crime of threat was used in 6 case

and destruction of property 4 times. Most of the offences were motivated by national or ethnic origin of the victim (9) or victims' sexual orientation (5), while two cases were classified as promotion of the Ustasha ideology. It has to be outlined, though, that many hate crime victims did not initiate legal proceedings against their offenders, preferring to report incidents to NGOs. Thus, the data handed by the NGOs operate with much larger numbers: for example, in 2016 the SNV recorded 331 cases of ethnically-motivated violence, threats and hate speech (which could be prosecuted by the CC).

Finally, existing legal framework is not sufficiently applied. For example, offence that could be classified as hate speech were treated as misdemeanour under the Act on the Misdemeanours against Public Peace and Order in order to achieve faster proceedings.

Specific cases

National minorities

Relaxation of external pressure with the EU membership, combined with the regime change, led to a stronger rhetoric vis-à-vis national minorities and their rights. In January 2016, the Agency for Electronic Media, an independent regulatory body monitoring broadcasting in Republic of Croatia, imposed a three-day ban after the racist comments made by a presenter of Zagreb's Z1 television. The ban triggered a demonstration of around 5000 people, including the deputy speaker of Parliament from a far right party Croatian Party of Rights. Amid public use of Ustasha salute "Za dom spremni" (ZDS) protesters called for the AEM's President resignation pointing out her Serbian ethnic origin. In the aftermath of the protest Milorad Pupovac, leader of SNV and main exponent of the Serbian minority in Parliament, warned about "ever stronger atmosphere of intolerance"¹⁹ in a letter to the president Kolinda Grabar Kitarović. In a long answer, the president outlined that some persons who were victims of racist comments or threats however, "for years provoke, irritate, and even offend the biggest part of Croatian public sphere, falsely represent and even mock the Homeland war [...] and implicitly the very idea of Croatian state, contributing therefore to the atmosphere of tension, exclusion and intolerance".²⁰ In the following weeks Prominent member of the HDZ and current party vice-president Milijan Brkić stated that "whoever does

¹⁹ <https://www.vecernji.hr/vijesti/evo-sto-je-pupovac-napisao-u-pismu-predsjednici-grabar-kitarovic-1059930>

²⁰ <https://www.jutarnji.hr/vijesti/hrvatska/predsjednica-pupovcu-da-porasla-je-nesnosljivost-ali-prije-dolaska-nove-vlade.-bivsi-premijer-je-rekao-ili-mi-ili-oni-a-u-novostima-se-izrugivalo-s-hrv.-himnom/99052/>

not feel safe in Croatia, can leave for a safer place".²¹ In 2017, the weekly Novosti, edited by the SNV, were publically burned twice by members of the far right Autochthonous Croatian Party of Right under the slogan "we've stopped you in 1991, and will stop you again".²² The reason for the burning of the paper was an invented information about Novosti's propaganda for incensing the summer fires in Lika. Later it was confirmed that Lika's fire was set up by two young women who expressed the anger they felt towards the Serbs since the Homeland war.²³

Members of Roma community continue to be subjects of racially motivated violence. In 2017 particular attention was given to the judgement of the European Court of Human Rights (ECHR) in case *Škorjanec v Croatia*, where Croatia failed to rightly apply its legal mechanisms to a concrete factual situation. The case dealt with physical assaults suffered by the applicant (of non Roma origin) and her partner of Roma origin. ECHR was satisfied that Republic of Croatia violated rights of the applicant to forbid torture, inhuman and degrading treatment (Article 3 of the European Convention on Human Rights) or prohibition of discrimination (Article 14). The Croatian institutions did not apply hate crime as the applicant was not of Roma origin, even though she was a victim by association and there was "no need that the victim personally possess characteristic protected by the law".²⁴

LGBT community

Although legal protection of members of the LGBT community in Croatia has improved significantly in the past decade, especially with the adoption of the law on same-sex partnership in 2014, there are still a considerable number of incidents and discrimination directed towards the LGBT individuals. In February 2017 a club in Zagreb was attacked with tear gas, prompting a protest organised on 13 February by Zagreb Pride NGO that gathered more than a thousand citizens.²⁵ The authorities reacted promptly to violence, condemning the attack and opened an investigation.

²¹ <https://www.telegram.hr/politika-kriminal/ovo-je-i-moja-zemlja-sigurnije-mjesto-nisam-trazio-nit-cu-ga-traziti-odgovara-pupovac-milijanu-brkicu/>

²² <https://www.index.hr/vijesti/clanak/srbija-prosvjeduje-zbog-paljenja-novosti-u-centru-zagreba-to-je-velicanje-ustastva-i-raspirivanje-mrznje/992375.aspx>

²³ <https://crnemambe.hr/crne-mambe/stalne-rubrike/iz-domovine/2346-zaradila-kaznenu-prijavu-izazvala-pozar-er-u-brgudu-zivi-srpska-manjina>

²⁴ <https://strasbourgobservers.com/2017/06/13/skorjanec-v-croatia-victims-of-racist-hate-crime-by-association-protected-by-echr/>

²⁵ <http://novilist.hr/Vijesti/Hrvatska/Prosvjed-protiv-nasilja-Vise-od-tisucu-ljudi-u-Zagrebu-Bencic-Politicka-elita-odgovorna-za-atmosferu-mrznje>

In September 2017 a draft version of new Family Act was presented and provoked strong reaction, due to very restrictive and discriminatory definition of family. Consequently, couples without children are not considered to be a family, but also same-sex couples with children do not enter in proposed definition of family²⁶.

The topic of family and LGBT persons was again put in focus at the very beginning of 2018 when a children's book "My rainbow family" dealing with different types of family was released. The book promotion itself was not a major news, but a reaction to it sparked a heated discussion: during the children's carnival near Split, the object chosen to be burned because representing "all bad things in previous year" was precisely the abovementioned book.²⁷ A group of NGOs almost immediately filed criminal charges against the organisers.²⁸

Asylum seekers

Institutional treatment of asylum seekers arriving to Croatian territory has deteriorated in comparison to 2015, when the so called "Balkan migrant route" was created. The Ministry of Interior adopted more restrictive security policy and from the end of 2016 and throughout the 2017 a number of NGOs reported mistreatment and illegal expulsion of immigrants towards the territory of the Republic of Serbia. According to the Aliens Act,²⁹ a report on the reasons of expulsion from Republic of Croatia is mandatory and the entire process must be performed on the individual basis with the secured translation services. Many migrants complain of the impossibility to request international aid and of the police brutality and inhumane treatment.

The most striking case which profoundly resonated in the media and public discourse was that of six years old Afghan girl Madina Hosseini who was killed in November 2017 in a train accident while returning to Serbia with her family. According to the witness' testimonies, the Hosseini family crossed the Croatian border from Serbia with a group of immigrants, but was forced by Croatian police forces to re-enter Serbia, instead of registering as asylum seekers in the closest Croatian police station. In June 2018, ECHR confirmed the

²⁶ however, under the Law on Life Partnership the same-sex partner has right to providing partner care for the biological child of her partner.

²⁷ <https://dnevnik.hr/vijesti/hrvatska/na-djecjem-karnevalu-spalili-su-slikovnicu-o-istospolnoj-obitelji---505528.html>

²⁸ <https://www.vecernji.hr/vijesti/spaljivanje-slikovnica-zagreb-pride-lori-dugine-obitelji-roda-karneval-1224669>

²⁹ <http://www.poslovni-savjetnik.com/propisi/zakon-o-strancima-urednicki-procisceni-tekst-nn-br1302011-742013-i-692017>

complaint of Hosseini family on the ground of inhuman living conditions and illegal detention of entire family in reception centre in Tovarnik.

Sport

Sport matches and manifestation continue to represent an arena of inappropriate and offensive behaviour of supporters. Most frequently sport clubs are fined (with mild financial fines), whereas direct offenders are usually exempt from any sanctions, creating in that manner climate of impunity.

In March 2018, as a result of the first instance trial, Croatian Football Federation and Damir Vrbanović,³⁰ executive director of the Croatian Football Federation, were fined with 50000 and 5000kn (around 550 euros) respectively, for the incident occurred in June 2015 when a giant Nazi swastika was drawn on a football pitch hosting Euro qualifications match between Croatia and Italy.

In 2017 Zagreb Dinamo's councillor Zdravko Mamić, "the grey eminence of Croatian football" and Janica Kostelić, former alpine skiing champion and incumbent State Secretary for Sports, were attacked outside of the sporting events. The attacks were allegedly motivated by the dissatisfaction of supporters because of the lacking implementation of the 2015 Sports Act. The punishment in second case, instead of the usual financial fine included five days imprisonment for seven offenders³¹ who verbally attacked State Secretary, a practice almost never performed in Croatia (although existing in the law). Such treatment sparked a heated public debate and Misdemeanour Appellate Court overturned decision on imprisonment, as no concrete facts and circumstances justified the first decision.

World War II

In 2017, the legacy of symbols from the WWII Independent State of Croatia (NDH), a Nazi puppet state established in 1941 which lasted until the end of the WWII, is still present in public sphere and political and public discourse. Specific U sign, Nazi swastika or "Za dom spremni" (ZDS) salute, are only some of the symbols manifested in public space (as graffiti, banners, (football) fans chants, memorial plaque signs, etc.).

³⁰ <https://www.jutarnji.hr/vijesti/hrvatska/presuda-za-svastiku-na-poljudskom-travnjaku-vrbanovic-i-hns-osudeni-za-veliku-sramotu-u-splitu-sudac-im-propisao-najnizu-mogucu-kaznu/7109925/>

³¹ Two of whom were minors at the time of offence

On 5 November 2016, in the municipality of Jasenovac³², war veteran members of the Croatian Defence Council (HOS), a paramilitary unit created as an army section of the Croatian Party of Right (HSP) during the Homeland War, put a memorial plaque commemorating 11 fallen HOS soldiers. The HOS units used the ZDS slogan during the 1991-1995 war, perfectly aware of its NDH meaning, and still have incorporated in their emblem. Therefore, the positioning of the plaque in the place of the WWII concentration camp provoked strong reactions on the national level. The authorities removed the memorial plaque from Jasenovac to Novska in September 2017, although the ZDS remained on the HOS emblem present on the inscription.

In order to decide on the usage of the legacy of totalitarian symbols, paroles, signs, emblems, names, gestures, uniforms and similar, the Government of Republic of Croatia founded in February 2017 a special Council for Dealing with the Consequences of the Rule of Undemocratic Regimes, and appointed Zvonko Kusić, President of the Croatian Academy of Sciences and Arts, as its chair. The aim of the Council was to provide a document within a year and give instructions for the legal interpretation of selected features of undemocratic regimes (communist and fascist, i.e. related to communist party regime and NDH). On 28 February 2018, the Council presented a so-called Dialogue document (DD),³³ in which the recommendation for an explicit ban of concrete hate insignia like Hitler salute, Nazi swastika, ZDS, is given. The DD claims that the ZDS salute, although it is related to a 25 years use during and after the Homeland War, is not acceptable as it is (and was) contrary to the Croatian Constitution and cannot be "cleared" from the negative connotations. However, there is a narrow margin of tolerance, DD suggests, for the insignia of war veteran units, which are allowed to use the ZDS. The DD also identifies and gives possibility to blanket prohibition on insignia pertaining to "aggressors to the Republic of Croatia 1990-1995".³⁴

Jasenovac the focus of the news on two other significant events in 2017. As in the previous year, there were three separate commemorative events marking the breakthrough of the concentration camp inmates in April 1945: official commemoration sponsored by

³² Between 1941 and 1945, Jasenovac concentration camp was a place of imprisonment, forced labor and executions. Camp was a part of the system of camps set by the Croatian fascist Ustasha movement that proclaimed the Independent State of Croatia (NDH) a Nazi puppet state. In Jasenovac concentration camp, members of national and religious minorities (Serbs, Roma, Jews), as well as Croatians that opposed the regime, were imprisoned and killed.

³³<https://vlada.gov.hr/UserDocsImages/Vijesti/2018/05%20svibanj/5%20svibnja/DOKUMENT%20DIJALOGA%20ENG.pdf>

³⁴ Ibid.

Croatian Parliament, and those organised by the Coordination of Jewish Municipalities and Alliance of Anti-Fascist Fighters. In 2016, SNV cancelled their attendance at the official commemoration because of the "real presence of the Ustasha relativisation" in the Croatian society, whereas the Jewish communities' representatives denied their arrival for similar reasons and "politics of compliance" with extremism.³⁵

On 19 April 2017 film director Jakov Sedlar received a City of Zagreb Award, only one year after his highly revisionist documentary "Jasenovac - the truth"³⁶, proved to contain falsified historical facts in order to diminish the atrocities committed in the concentration camp, was released. The film questions the number of killings (officially estimated to be at least 83000 by the researchers of the memorial site³⁷) and the nature of the camp, claiming that it was only a labour punitive camp.

There were 34 occasions in 2017 where police registered offences in relation to the Croatian flags with NDH emblem. Such flags (with first white field on the check board sign) are not allowed for use according to the Act on the coat-of-arms, flag and anthem of the Republic of Croatia, and on the flag and sash of the President of the Republic of Croatia³⁸. However, the institutions in charge do not have unified practice and methods of sanctioning/confiscating of said insignia and, consequently, the offenders are usually not brought before the court of justice.

The legacy of the WWII in public space is also subject to changes and adjustments. In 2017, there were few emblematic street name changes which resonated in the public sphere. On 31 August 2017 councillors of Zagreb city administration voted with just under 60% in favour of renaming the Marshal Tito Square into Republic of Croatia Square. Debates around WWII and anti-fascist legacy of the Socialist Federal Republic of Yugoslavia and its president Tito, triggered a minor protest³⁹ on the Day of Anti-fascist struggle (22 June 2017), when the proposal for renaming the square was already articulated in the city council.

Women rights

³⁵ <https://www.telegram.hr/politika-kriminal/odrzana-je-sluzbena-komemoracija-u-jasenovcu-na-kojoj-po-prvi-put-nije-bilo-drzavnickih-govora-a-ovo-je-nekoliko-bitnih-stvari-o-tome/>

³⁶ <http://www.balkaninsight.com/en/article/croatian-jews-outraged-by-holocaust-denial-film-04-05-2016>

³⁷ <http://www.jusp-jasenovac.hr/Default.aspx?sid=6284>

³⁸ https://www.pravo.unizg.hr/_.../Act_on_the_Coat_of_Arms.doc

³⁹ Around 500 persons gathered at the M. Tito square

In 2017 some important aspects regarding women's rights were subject of public interest in Croatia. The process of ratification of Council of Europe's Convention on preventing and combating violence against women and domestic violence, also known as Istanbul Convention, put some organisations and initiatives of catholic and conservative inspiration into mainstream focus because of their revolt against so-called "gender ideology".⁴⁰ The Convention defines gender in order to indicate gender related violence against women; however, conservative NGOs *U ime obitelji* (In the name of the family) and *Vigilare*, backed by minor fractions of the governing coalition, protested since it "enters into traditional, cultural, identitarian and legal definition of Croatian society". The Convention was later ratified (13 April 2018) amid protests organised in major Croatian towns.

Since 2016, during the Easter fasting, Croatian exponents of the international initiative "40 days for life" protested throughout the country in front of selected hospitals performing abortions. In addition, "Walk for life" (Hod za život), a pro-life protest walk against right to abortion was first organised in 2016 gathering around 7000 supporters and continued to attract similar number of protesters in the following years. Although, such initiatives never affected protection and legally guaranteed women's rights, catholic and conservative ideas start to make their way into mainstream public sphere.

Finally, on 21 February 2017 Croatian Constitutional Court rejected a 26 year old request for evaluation of constitutionality of the Abortion Act, but demanded Croatian Parliament to issue a new Act in the following two years.

Freedom of speech

On 24 February 2017 County State Attorney declined a complaint filed by HSP against the SNV weekly *Novosti* for damaging the reputation of the Republic of Croatia (Article 349 of the CC). The weekly published a mock version of the national anthem on the occasion of the celebration of the Operation Storm.⁴¹ The State Attorney was satisfied that the article in question was a satire representing a form of the freedom of speech.

On the other hand, when a teenager shouted "HDZ thieves!" during a visit of the Prime Minister Andrej Plenković to the town of Poreč on 23 August 2017, only two hours after the misconduct the offender received charges for minor offence for "disturbance of the

⁴⁰ <https://www.libela.org/sa-stavom/9099-kako-se-kalila-rodna-ideologija-politicka-drama-u-tri-cina/>

⁴¹ Operation Storm is a military operation that secured Croatian victory in the Homeland War. However, during and in the aftermath of the operation most of the local Serbian population escaped or left Croatia.

peace and public order by noise". Even though the police was respecting the existing law, the prompt police reaction and the nature of offence leave the impression of unequal treatment of other citizens of Croatia in similar situations.

Finally, artistic production in 2017 suffered two major cases of restriction of freedom of expression. First, during the Festival of Croatian drama "Marulićevi dani", organised in National theatre in Split and sponsored, among others, by the Ministry of Culture, a protest was organised against the Oliver Frlić's play "Our violence, your violence".⁴² Moreover, the governor of the Split-Dalmatia county stated that the play "offends, in the rudest way, human, religious and national feelings".⁴³ In addition, Ministry of culture issued a statement in which it reasoned that while "respecting artistic freedoms and aesthetic principles of every artist [...] when creating and performing a work of art it is necessary to have in mind religious and national feelings, as well as basic human rights of every individual or social group".⁴⁴ Such declaration, however, can be interpreted as a call for self-censorship.

Other case related to cultural production examines precisely the case of self-censorship of the state television HRT. A Croatian film "Ministry of Love", financed among others by the Croatian Audio-Visual Centre and the HRT itself, was taken off the program list on 4 January 2018, after the pressure imposed by associations of war veteran widows. The film was finally played a week later, at 10.30 p.m., instead of a primetime time slot. Even though veteran associations play an important role in everyday life in Croatia, the abovementioned episode definitely illustrates their leverage in decision making processes even in spheres of not direct veteran population's interest.

Society's attitude towards immigrants, foreign nationals and various ethnic minorities

Croatia is one of the most homogenous countries in Europe, both from the religious point of view (86, 28% Catholics), and from that of ethnic origin (90,42% Croatians).⁴⁵ However, it is also a home to 22 national minorities (Serbian, Bosniak, Roma, Hungarian,

⁴² <https://www.jutarnji.hr/vijesti/hrvatska/splitski-zupan-najavio-obustavu-financiranja-marulicevih-dana-zbog-frljica-to-uopce-nisu-marulicevi-dani-to-je-zloupotreba/5952977/>

⁴³ Ibid.

⁴⁴ <https://www.tportal.hr/kultura/clanak/ministarstvo-kulture-se-ograduje-od-kontroverzne-frljiceve-predstave-20170422>

⁴⁵ https://www.dzs.hr/Hrv_Eng/publication/2012/SI-1469.pdf

Italian, Albanian, Czech being the most numerous ones) and ever growing number of persons under the humanitarian protection.⁴⁶

In this chapter I have consulted both qualitative and quantitative studies dealing with hate speech in Croatia⁴⁷, attitudes towards national minorities, refugees and migrants⁴⁸, discrimination and xenophobia reports⁴⁹ as well as regular surveys done by agencies like Ipsos, Eurobarometer, Gallup.

Research done by CEDIM in 2016 outlined three sets of attitudes towards national minorities in Croatia: 1) positive evaluation of "old" minorities⁵⁰; 2) problems and challenges related to the Serbian minority; 3) attitudes towards the Roma community. The Homeland War experience continues to predominantly affect majority's attitudes towards the Serbian minority, while other minority groups are not perceived differently because of their possible role in the 1991-1995 war. Most often social, political and cultural rights of the Serbian community are seen as disproportionately high, especially because of the previous war crimes committed by members of the rebel Serb Army in the 1990s. While, for example, Italian or Hungarian language are in use even in municipalities who have less than one third of inhabitants belonging to national minority (minimum required by the law), the Serbian language and Cyrillic script still carries negative connotations. As a result, even the members of the Serbian minority usually do not request double language personal documents (around 100 per year for a community counting more than 186 thousand persons) in order to avoid societal pressure and stigma.

After right wing government came to power in 2015, changes in cultural policies pushed forward by the then Minister of culture Zlatko Hasanbegović, national minorities faced cuts in state budget (11% cut of public funds for the national minority civil society) and experienced insecurity on other levels as well. In the last couple of years, there is a growing dissatisfaction with the Croatian parliament mandate distribution model, which guarantees eight MPs for the representatives of national minorities. In 2018 an initiative for a referendum aiming to abolish direct vote for minority representatives was set up, with regularity of signatures currently being in process of evaluation.

⁴⁶ Ibid.

⁴⁷ Kulenovic, E. Govor mrznje u Hrvatskoj, Fakultet politickih znanosti, zagreb, 2017.

⁴⁸ Baricevic, V and V.Koska, Stavovi i percepcije domace javnosti o nacionalnim manjinama, izbjeglicama i migrantima, CMS/CEDIM, Zagreb, 2016.

⁴⁹ Zasupljenost i indikatori diskriminacijskih i ksenofobicnih stavova u Republici Hrvatskoj u 2017., CMS, Zagreb, 2017.

⁵⁰ Meaning minorities recognized as such in the institutional system of the SFRY. Serbian minority lost the status of the constituent people when the Republic of Croatia gained independence, and became national minority under the new institutional order.

The Advisory Committee on the Framework Convention for the Protection of National Minorities concluded in its 2016 report that although the legislative framework addressing minorities' issues in Croatia is satisfactory, a surge in nationalism and political radicalization is having a negative impact on the enjoyment of these rights.⁵¹ Moreover, also in 2016, the CoE's Commissioner for Human Rights reported rise in ethnic intolerance, hate speech and other forms of hate crime targeting national minorities.⁵² In its latest report ECRI expressed concern that hate speech, particularly in connection to WWII Ustasha regime is mostly observed among young people. In addition, a recent research showed that the youth aged 16 to 25 is mostly susceptible to populist ideas.⁵³

Among national minorities, Roma community is the one dominantly attracting negative stereotypes. Most of the informants, in various researches, outline prejudices related to Roma way of life, level of education or social ties, and not rarely they are discriminated on the ground of physical appearance. According to the 2016 research done by the Ombudsman office on presence of prejudices and stereotypes, marriage with a person of Serbian ethnic or different racial background is still unacceptable for about one fifth of the citizens of the Republic of Croatia, almost half of the population claims that the Roma live on social aid, and about one third that the refugees should not be given employment.⁵⁴ However, surveys done in multicultural communities show positive trends: in the town of Varazdin in mixed Croatian-Roma school 57,4% pupils want a child of Roma origin as their friend, where in Croatian only school that number dropped to 17,3%.⁵⁵

LGBT rights are guaranteed rather extensively by the law, although the society in Croatia is still very divided regarding the social acceptance of LGBT individuals. More than 60% of the LGBT respondents to the 2013 EU LGBT survey reported discrimination or harassment on grounds of sexual orientation. According to the Eurobarometer 2015, only 48% of respondents agreed that homosexual persons should have the same rights as heterosexual people.⁵⁶

⁵¹<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c268b>

⁵² <https://www.coe.int/en/web/commissioner/-/croatia-high-time-to-create-a-tolerant-and-inclusive-society>

⁵³ Derado, A., Dergić, V. and Međugorac, V. (2015), Croatian Youth and Populism: A Mixed Methods Analysis of the Populism "Breeding Ground" among the Youth in the City of Zagreb, Sociological review, Vol. 46 No. 2, August 2016, <http://hrcak.srce.hr/170375?lang=en>.

⁵⁴ <http://ombudsman.hr/attachments/article/1147/Istra%C5%BEivanje%20-%20diskriminacija%202016.pdf>

⁵⁵ <http://ombudsman.hr/hr/naslovna/novost/1308-stanje-ljudskih-prava-u-hrvatskoj-izvjesce-pucke-pravobraniteljice-za-2017>

⁵⁶ ILGA-Europe (2016) Annual Review, https://www.ilga-europe.org/sites/default/files/Attachments/annual_review_2016-for_web.pdf.

In comparison to a research done by Centre for Peace Studies (CMS) in 2013, their 2017 survey on discrimination and xenophobia shows an improvement in societal attitude towards the national minorities: fear and danger in relation to Roma (25% of informants sees them as danger for the majority population), Serbs (28%), Bosniaks, people of colour or atheists has diminished. However, the worrying fact is that the refugees and asylum seekers became "new Other".

A survey performed by Gallup agency in August 2017 classified Croatia among countries whose citizens are least friendly towards migrants and refugees: of 139 countries surveyed, behind Croatia there are only Estonia, Czech Republic, Latvia, Israel, Slovakia, Serbia, Hungary, Montenegro and FYR Macedonia. Croatian society is divided in relation to persons seeking asylum or humanitarian protection: around 40% of respondents in Croatia do not want Syrians in their country, while 39% argues that the state could accept some of those transiting through Croatia.

Consequently, CMS research results demonstrate that 82,8% respondents agree with the statement that "instead of arriving to the EU escaping from war, (young) men from Syria should remain and fight for their country". Almost 70% of the informants assume that among refugees there is an important number of terrorists among them, and 79,5% think that the refugees should go to culturally similar countries, and not to Europe. Moreover, two thirds of respondents partially or fully agrees that the refugee crisis is a mask for a planned population of Muslims in Europe. Even though asylum seekers and beneficiaries of humanitarian protection have very few meeting points in everyday life as their integration into society lack serious institutional policies and strategies, there is an increasing trend of discomfort in presence of foreigners - namely, in 2013 29,8% responded positively to the statement "I do not feel comfortable in contact with foreigners who settled in Croatia", whereas that number increased to 41,5% in 2017. Moreover, in 2017 39,7% survey respondents agreed that "immigrants should not publicly expose their religious and cultural practices in order to be welcomed into our society", which is a sharp increase of 15% compared to 2013. ECRI report suggest that media facilitated an increase in islamophobic sentiment among the population by using sensationalist discourse strategies in depicting immigrants either as helpless victims inferior to domestic population or as natural "disaster" (using metaphors like 'flood', 'invasion', etc.) Nevertheless, there is a growingly positive attitude of the citizens towards the immigrants who would like to continue their schooling and professional career in Croatia.

Recommendations

Legal system in Croatia secures a very good framework to combat discrimination, xenophobia and racism. However, the victims of discrimination directly address the court very rarely, mostly because of the lack of financial means, but also because of the lack of trust in state institutions. 85% of the Croatian citizens do not consider the national judiciary independent, results of the 2017 Report of the European Commission on public perception of national legal systems show. Moreover, a research done by the Ombudsman office reports that only 2,8% of the respondents would approach the court or State Attorney in addressing their problem.

Speaking of the content of Croatian legal mechanism, the CC should include provision which should include citizenship as ground of discrimination. Moreover, incitement to discrimination is not criminalized, nor public expression of an racist ideology.

Also, there should be a clearly outlined strategy when processing crimes dealing with discriminatory offences and hate speech. The authorities should train police and judicial servants on the application of Article 87 (aggravating circumstances) of the CC. Furthermore, the OHRRNM should adjust its Protocol on procedures in case of Hate Crime in line with standards of common EU methodology on addressing and following data related to hate crimes and public incitement of violence and hate. This protocol should also decide on a common strategy concerning offences described by the Law on the Coat of Arms, the Flag, and the National Anthem of the Republic of Croatia, and on the Flag and Sash of the President of the Republic of Croatia.

In general, anti-discrimination measures are of punitive nature and the Republic of Croatia should work more on preventive actions such as: 1) promoting equality by public authorities, 2) education and training of non-discrimination policies for civil servants, including introduction of the ADA into legal sources given at the state exam for civil servants, 3) introduction of compulsory human rights education in school curricula as part of the civic education program aiming to sensibilise on community values, tolerance and solidarity. In similar vein, OHRRNM should provide more information to citizens about the prohibition of discrimination, possibilities and mechanisms of protection.

Croatian Government, on the other hand, should allocate financial means for enabling the implementation of The National Plan for Combating Discrimination. Moreover, the Government should send clear message of contrasting nationalist and anti-minority discourse. Together with Ministry of Public Administration, the Government should find a solution of

the current stalemate vis-a-vis Law on Official Use of Language and Script of National Minorities. Finally, the Government should regulate the domains which may not be included in referendum initiatives, primarily human rights and national minorities rights.

In domain of LGBT rights protection, a national plan to combat homophobia should be adopted, and specific training for police and judiciary can be organized in order to adequately address offences inflicted to this vulnerable group.

The need of Roma community should be addressed through the Action plan for the implementation of the NRIS, and resume social, political and cultural measures dedicated to Roma minority, blocked since 2016 when the previous Action plan has expired.

Policies directed towards the asylum seekers and beneficiaries of humanitarian protection should resume, especially in domain of language training, necessary for the self-sufficiency and employability of those individuals. Moreover, their status should be processed with less delays; therefore additional infrastructure and capacities as well as new migratory policies are needed, especially in domain of the access to international protection.