



Brussels, 5.7.2023
SWD(2023) 811 final

COMMISSION STAFF WORKING DOCUMENT

2023 Rule of Law Report Country Chapter on the rule of law situation in Croatia

Accompanying the document

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

2023 Rule of Law Report

The rule of law situation in the European Union

{COM(2023) 800 final} - {SWD(2023) 801 final} - {SWD(2023) 802 final} -
{SWD(2023) 803 final} - {SWD(2023) 804 final} - {SWD(2023) 805 final} -
{SWD(2023) 806 final} - {SWD(2023) 807 final} - {SWD(2023) 808 final} -
{SWD(2023) 809 final} - {SWD(2023) 810 final} - {SWD(2023) 812 final} -
{SWD(2023) 813 final} - {SWD(2023) 814 final} - {SWD(2023) 815 final} -
{SWD(2023) 816 final} - {SWD(2023) 817 final} - {SWD(2023) 818 final} -
{SWD(2023) 819 final} - {SWD(2023) 820 final} - {SWD(2023) 821 final} -
{SWD(2023) 822 final} - {SWD(2023) 823 final} - {SWD(2023) 824 final} -
{SWD(2023) 825 final} - {SWD(2023) 826 final} - {SWD(2023) 827 final}

ABSTRACT

In 2022, positive steps were taken regarding the Croatian justice system as periodic security checks on judges were removed by way of a Constitutional Court decision and amendments are being drafted to remove them in relation to state attorneys. The electronic registers for verifying asset declarations from judges and state attorneys are now in use by the State Judicial Council and State Attorney's Council. Instances of integrity challenges among judges and state attorneys are being addressed in disciplinary proceedings, and criminal proceedings in cases of alleged corruption by judges are ongoing. The level of remuneration of judges, state attorneys and judicial staff is being addressed, although concerns remain. Public communication about the work of the judiciary could be improved, as also recommended by the People's Ombudsperson. The level of perceived judicial independence remains very low. The justice system further extended electronic communication tools and decreased backlogs, but significant efficiency and quality issues remain.

Croatia committed to taking legislative action on bribery of foreign public officials. The effective investigation of high-level corruption continued, and the overall number of indictments and judgments increased. The excessive length of investigation, prosecution and adjudication of corruption offences continued to undermine the effectiveness of the anti-corruption system. The resources of the Commission for the Resolution of Conflicts of Interest have been increased to match its tasks, although difficulties with the verification of assets remain. Codes of Conduct were adopted for members of Parliament and almost all local and regional administrations have introduced them too. Draft legislation on lobbying was submitted for public consultation.

The legal framework provides safeguards for media pluralism and freedom as well as the freedom of expression and the right to information. The legislation on the general access to information and public documents has been revised, while in some cases delays remain an issue in practice. Concerns about the political independence of the Council for Electronic Media and the public service broadcaster HRT from the parliamentary majority persist. Media ownership information is publicly available. No further steps have been taken to further strengthen the framework for the public tender procedure for state advertising in local and regional media. Only some steps have been made on the issue of strategic lawsuits against public participation (SLAPP) targeting journalists, which remain a significant concern impacting the professional environment for journalists.

The number of public consultations increased significantly. The preparation of the new National Plan for Creating an Enabling Environment for the Civil Society Development 2021-2027 has not progressed. The follow-up to the People's Ombudsperson's recommendations has slightly improved while challenges remain on guaranteeing access to information.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2022 Rule of Law Report, Croatia has made:

- Significant progress on the recommendation to reconsider the newly introduced periodic security checks conducted by the National Security Agency on all judges and state attorneys by ensuring their integrity based on other existing mechanisms, taking into account European standards on judicial independence and autonomy of prosecutors and the opinion of the Venice Commission.
- Some progress on introducing comprehensive legislation in the area of lobbying, including on persons with top executive positions, and to set up a public register of lobbyists.
- No further progress on further strengthening the framework for a fair and transparent allocation of state advertising, by establishing clear criteria, good practices and oversight measures to guarantee the effective functioning of the new public tender procedure for local and regional media.
- Some progress on addressing the issue of strategic lawsuits against public participation targeted at journalists, including by addressing the abuse of legal provisions on defamation and encouraging awareness, taking into account European standards on the protection of journalists.
- Some progress on ensuring a more systematic follow-up to recommendations and information requests of the Ombudsperson.

In addition to recalling the commitments made under the national Recovery and Resilience Plan relating to certain aspects of the justice system and the anti-corruption framework, it is recommended to Croatia to:

- Continue structural efforts to address the remuneration of judges, state attorneys and judicial staff, taking into account European standards on resources and remuneration for the justice system.
- Adopt comprehensive legislation in the area of lobbying, including on persons with top executive positions, and set up a public register of lobbyists.
- Revise the Criminal Procedure Code and the Law on the Office for the Suppression of Corruption and Organised Crime, as set out in the Anti-Corruption Strategy, so as to increase the efficiency of investigations and prosecution of corruption offences.
- Advance with strengthening the framework for a fair and transparent allocation of state advertising, by establishing clear criteria, good practices and oversight measures to guarantee the effective functioning of the public tender procedure for local and regional media.
- Make further efforts to address the issue of strategic lawsuits against public participation targeted at journalists, including by reviewing the legal provisions on defamation and encouraging wider use of procedural rules that allow dismissing groundless lawsuits, taking into account the European standards on the protection of journalists.
- Further improve the follow-up to recommendations and ensure a more systematic response to information requests of the Ombudsperson.

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. It acts as the prosecution service, and undertakes legal actions for the protection of state property and applies legal remedies for the 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 in Croatia continues to be very low both among the general public and companies. Overall, 22% of the general population and 18% of companies perceive the level of independence of courts and judges to be 'fairly or very good'

¹ The State Judicial Council is a judicial self-governance body with 11 members, seven judges elected by their peers, two university professors of law and two members of Parliament, one of whom is from the opposition. They are elected for a four-year term and can be re-elected once. The Council appoints/ dismisses judges and court presidents, decides on the immunity, transfer and external activities of judges, conducts disciplinary proceedings and decides on the disciplinary responsibility of judges. The Council also participates in training of judges and court clerks, adopts a methodology for evaluating judges, and verifies asset declarations of judges.

² Figures 55-57, 2019 EU Justice Scoreboard; Figure 54, 2020 EU Justice Scoreboard, and Figures 55-56, 2021 EU Justice Scoreboard.

³ The State Attorney's Council is a prosecutorial self-governance body with 11 members, 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. They are elected for a four-year term and can be re-elected once. The Council's mandate includes the appointment, dismissal and transfers of state attorneys, decisions on external activities, on objections to evaluations, and participation in trainings. The Council also keeps personal records and verifies the asset declaration of state attorneys and deputy state attorneys, as well as 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 (which consists of at least five members and decides on more serious violations and appeals against Disciplinary Councils' decisions), and the Higher Disciplinary Court (which consists of at least five members and decides on appeals against Disciplinary Court's decisions). The Executive Board of the Bar elects Disciplinary Councils, which consist of three members and decide on less serious violations.

in 2023⁵. According to data in the 2023 EU Justice Scoreboard, no clear trend can be identified in the evolution of the perceived level of independence since 2016. Although perceived judicial independence among the general public has slightly increased in comparison with 2022 (20%), it remains lower than in 2016 (28%). Perceived judicial independence among companies has decreased in comparison with 2022 (23%) as well as with 2016 (24%). The main reason cited by the general public and by companies for the perceived lack of independence of courts and judges is the perception of interference or pressure from the Government and politicians⁶. More detailed surveys to identify the underlying reasons of different stakeholders for the continuously low level of perceived judicial independence are not available⁷.

The periodic security checks on judges were removed by way of a Constitutional Court decision and amendments are being drafted to remove them regarding state attorneys. The 2022 Rule of Law Report recommended to Croatia to ‘reconsider the newly introduced periodic security checks conducted by the National Security Agency on all judges and state attorneys by ensuring their integrity based on other existing mechanisms, taking into account European standards on judicial independence and autonomy of prosecutors and the opinion of the Venice Commission’⁸. The introduction of security checks drew criticism from judicial representatives and was subject of a Venice Commission Opinion⁹. The 2022 Report found that the the security checks introduced in February 2022 raised concerns as they would be conducted by the National Security Agency¹⁰, a body under the control of the executive, and because they would be regular and conducted for all existing judges and state attorneys, not

⁵ Figures 49 and 51, 2023 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 51, 2022 EU Justice Scoreboard.

⁷ The last comprehensive survey of court users and professionals on the accessibility and quality of the court services was conducted in 2015. 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, Figure 37, 2021 EU Justice Scoreboard, Figure 40, 2022 EU Justice Scoreboard, and Figure 39, 2023 EU Justice Scoreboard, showing that in 2016-2021, no surveys were conducted.

⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 2. The Venice Commission found that the reform was not justified and that the existing Croatian legislation already provided for a wide array of mechanisms to ensure integrity of the judicial corpus, for example: (i) annual asset declarations which are checked by the State Judicial Council; (ii) annual assessments by the court presidents (regarding the minimum output and the behaviour of the judge concerned); (iii) the possibility of disciplinary proceedings; (iv) the possibility of criminal liability (judges only enjoy functional immunity); and (v) the existing possibilities for security checks. Venice Commission opinion (CDL(2022)005), para. 36.

⁹ In December 2021, Commissioner Reynders wrote to the Minister of Justice that the measure could raise concerns in the light of European standards on judicial independence and autonomy of prosecutors and could contribute to a generalised suspicion among the public about the judiciary. In November 2021, the Supreme Court stated that involving the National Security Agency (part of the executive) is contrary to the principle of separation of powers and judicial independence. In an Opinion of 21 March 2022 (CDL(2022)005), the Venice Commission recommended Croatia to reconsider its approach and develop an alternative strategy to ensure judges’ integrity, based on existing mechanisms. It stated that security checks on judges, especially when carried out by an executive body, may constitute external pressure by the executive branch. See also Statement by the President of the Association of Judges, October 2021. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 6-7.

¹⁰ Security and Intelligence Agency – SOA.

only for candidates before their appointment¹¹. On 7 February 2023, the Constitutional Court annulled the provisions of the Law on Courts which introduced the periodic security checks on judges¹². The Court found that the provisions did not fulfill the requirements stemming from the constitutional principles of rule of law and legal certainty and disproportionately interfered with the judges' rights¹³. On 7 February 2023, the Constitutional Court also annulled the amendment to the Law on State Judicial Council, which had entered into force on 19 July 2022 and introduced a new disciplinary offence in case an existing judge would refuse to give consent for the National Security Agency to conduct a security check¹⁴. As regards the periodic security checks on state attorneys, the Government prepared amendments that would remove them from the Law on the State Attorney's Office and their public consultation is pending¹⁵. As the periodic security checks on judges have been removed, and amendments are being drafted that would remove them also for state attorneys, there was significant progress regarding the recommendation made in the 2022 Rule of Law report.

Concerns about the integrity of judges and state attorneys are being addressed in disciplinary proceedings, and criminal proceedings in cases of alleged corruption by judges are ongoing. Allegations of violations by judges of the obligation of impartiality and their acceptance of improper gifts have led to criminal and disciplinary proceedings regarding judges¹⁶. In 2022, those criminal proceedings continued, whilst the disciplinary proceedings were concluded, with one leading to the dismissal of a judge¹⁷. More generally, in 2022, the State Judicial Council maintained the pace initiated in 2021 to address the integrity concerns in the judiciary, particularly through disciplinary proceedings¹⁸. Furthermore, the State Judicial Council continued to perform its control function with regard to external activities of judges,

¹¹ The security checks were to be conducted every five years, unlike before, when they were only conducted once – prior to the first appointment of a candidate judge or before a judge was allocated organised crime and corruption cases. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 6-8.

¹² Both the Supreme Court and the Association of Judges seized the Constitutional Court. Judgment of the Constitutional Court of 7 February 2023, *U-I-2215/2022*. The Court expressed doubts whether the new security checks would be a necessary and proportionate measure to increase the low perception of the general public about the justice system. According to the Court, a measure that is so intrusive into the persons' private life required a far more detailed regulation and a more substantiated reasoning in the explanatory memorandum to the law.

¹³ The Court particularly noted the lack of regulation concerning the judges' personal data, including the scope, methods of data collection, access to data and data security. Judgment of the Constitutional Court of 7 February 2023, *U-I-2215/2022*, para. 25.

¹⁴ Judgment of the Constitutional Court of 7 February 2023, *U-I-5197/2022*. The Court provided a similar reasoning as in its judgment *U-I-2215/2022*.

¹⁵ Information received from the Ministry of Justice in the context of the country visit to Croatia.

¹⁶ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 5-6.

¹⁷ In July 2022, the State Judicial Council dismissed one judge and in November 2022, the Constitutional Court rejected the appeal against dismissal. Another judge, also implicated in the alleged criminal offences, resigned in May 2022. Information received from the State Judicial Council in the context of the country visit to Croatia.

¹⁸ In 2022, 22 disciplinary proceedings were initiated (23 in 2021, 13 in 2020) and issued 16 sanctions (13 in 2021, 1 in 2020) including 4 dismissals, 1 conditional dismissal, 2 fines and 9 reprimands (1 conditional dismissal, 6 fines and 6 reprimands in 2021). Written contribution from the State Judicial Council in the context of the country visit to Croatia.

as required by law¹⁹. In 2022, the State Attorney's Council conducted several disciplinary proceedings regarding state attorneys²⁰.

The electronic registers for verifying asset declarations from judges and state attorneys are now in use by the State Judicial Council and State Attorney's Council. The 2022 Rule of Law Report found that the electronic registers (IT tools) had become operational and (in the case of State Judicial Council) the human resources were in place to enable the State Judicial Council and State Attorney's Council to start verifying asset declarations of judges and state attorneys²¹. Improving the IT tools and resources of both Councils by the beginning of 2022 was a milestone under Croatia's Recovery and Resilience Plan, which Croatia successfully fulfilled²². In 2022, the State Judicial Council employed two new officials. However, the State Attorney's Council's vacancies remain unfilled so far, and the Council does not have sufficient staff to continue effectively verifying asset declarations²³. On 1 July 2022, the Law on the State Judicial Council and Law on the State Attorney's Council were amended to introduce an obligation for the tax administration to transmit data on judges' or state attorneys' wealth to the Councils when so requested²⁴. As proposed by the President of the State Judicial Council, the amendment also requires the tax authority, if requested by that Council, to investigate and

¹⁹ To be noted that the law requires judges to request permission for external activities – an unjustified omission could lead to disciplinary proceedings. In 2022, the State Judicial Council received 76 requests from judges regarding external activities, 64 of which it approved, while for the remaining, the Council found that the law already allowed judges to conduct the activities in question. Information received from the State Judicial Council in the context of the country visit to Croatia.

²⁰ In 2022, the State Attorney's Council initiated one disciplinary proceeding, and issued three sanctions including one dismissal and two reprimands. It also suspended one state attorney from duty. Written contribution from the State Attorney's Council in the context of the country visit to Croatia. In March 2023, the State Attorney's Council closed disciplinary proceedings started against a former State Attorney General for his membership as a free mason. An earlier Council's decision to dismiss him was quashed on appeal by the Supreme Court arguing that the ethical rules in place at the time of Council's decision-making did not prohibit membership in such associations.

²¹ In 2021, the two Councils had not yet progressed with the verification of asset declarations of judges and state attorneys. By February 2022, the State Judicial Council and State Attorney's Council concluded agreements and were granted access to 14 online registers (concerning various types of property, e.g. movable, immovable, securities) in order to improve the efficiency of the process. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 5-6.

²² The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 214 states: 'Electronic tools and adequate administrative capacities shall be in operation for the State Judicial Council [...] and the State Attorney's Council [...], in order to improve the quality of the work of both Councils. Their human resources shall be increased by 50% compared to 2021 baseline (by recruiting at least 4 persons) and the linking the DSV and the DOV to the common land registry and cadastre (ZIS) and tax administration information system, shall be implemented in order to establish an effective mechanism for verifying the asset declarations of state officials'. The Commission found the milestone to be satisfactorily fulfilled on 10 November 2022. Communication to the Commission on the positive preliminary assessment of the second payment request of Republic of Croatia pursuant to Regulation (EU) 2021/241, C(2022)8209 final.

²³ The only official, who was verifying asset declarations resigned end 2022. Unlike the State Judicial Council, the State Attorney's Council decided to recruit only persons with work experience, which may account for the limited interest. Information received from the State Judicial Council and the State Attorney's Council in the context of the country visit to Croatia.

²⁴ Amended Art. 88b of the Law on the State Judicial Council and amended Art. 103 of the Law on the State Attorney's Council. Input from Croatia for the 2023 Rule of Law Report, p. 5.

report on the circumstances of acquisition of property by judges²⁵. In the course of 2022, the two Councils began using the new IT tools and human resources to verify the asset declarations submitted by around 1 600 judges and 640 state attorneys. By March 2023, the State Judicial Council verified about 70% of all asset declarations and was working with other authorities in charge of the relevant registers on resolving some of the remaining issues²⁶. Similarly, by March 2023, the State Attorney's Council had verified more than 90% of asset declarations received from state attorneys²⁷.

Quality

The use of the electronic communication system was further increased, and most remaining courts were integrated, in an effort to address digitalisation challenges. In 2022 the High Criminal Court, the High Administrative Court, the Administrative Courts, the Municipal Criminal Court in Zagreb and the criminal departments of the Supreme, Country and Municipal Courts, were integrated into the unified 'e-Communication' system already used by all other courts²⁸. Only misdemeanor courts are not yet included in 'e-Communication'. In 2022, the overall use of e-Communication with courts further increased by 50% (compared to 2021), particularly among lawyers, companies and court experts, but there is considerable room for improvement in the use by citizens, where the overall number of electronic documents exchanged remains very low²⁹. Therefore, despite some positive developments, considerable room for improvement regarding digitalisation remains³⁰. Efforts are under way to improve the integration into the electronic communication system of all court users, such as the parties and their lawyers, witnesses, victims, detention facilities or the police³¹. Croatia successfully fulfilled the milestone under the Recovery and Resilience Plan which required amending the Law on Criminal Procedure in view of legally allowing the use of ICT in criminal proceedings³². Electronic communication is also to be improved by adopted amendments to

²⁵ The amendments to the Law on State Attorney's Council have not introduced an equivalent provision in relation to the State Attorney's Council.

²⁶ Remaining issues to address include the ongoing initiative of the State Judicial Council to connect to the Ministry of Justice's salary register for judges (COP), problems with the shareholder register (which sometimes only shows a person owns a single share), and with the land registry where identification issues exist (showing multiple persons with the same name – due to the fact that the OIB, the tax number, is not inserted for all the tax residents in Croatia). Information received from the State Judicial Council in the context of the country visit to Croatia.

²⁷ Written contribution from the State Attorney's Council in the context of country visit to Croatia.

²⁸ The integration of the last remaining courts into the overarching 'e-File' system, whose module for electronic communication is called 'e-Communication', was achieved in 2021. Input from Croatia for the 2021 Rule of Law Report, p. 9, and written contribution from the Ministry of Justice in the context of the country visit to Croatia.

²⁹ The electronic communication among lawyers and companies increased by about 50% and reached nearly 3,2 million and 1,1 million exchanged documents, respectively. However, while among the citizens the number of electronic documents exchanged increased four-fold, the overall volume remained very low at less than 20 000 documents. Written contribution from Ministry of Justice and Public Administration in the context of the country visit to Croatia.

³⁰ In nearly all indicators, despite improvements when compared to 2021, the Croatian justice system remains in the bottom third in the EU. Figures 40-44 and 46-48, 2023 EU Justice Scoreboard.

³¹ Figures 41-44 and 46, 2023 EU Justice Scoreboard.

³² The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 216 states: 'Amendments to the Criminal Procedure Act allowing the use of ICT in criminal proceedings, including the introduction of remote

the Civil Procedure Act, Administrative Disputes Act and Notaries Act, which are part of the Croatian Recovery and Resilience plan³³. In order to contribute to increasing transparency and consistency of case law, first steps have also been taken to increase the publication of first and second instance court judgments³⁴, which remains very limited³⁵.

The level of remuneration of judges, state attorneys and judicial staff is being addressed, although concerns remain. Since 2009, the salary base of judges and state attorneys has been reduced in nominal terms three times and was raised in 2019³⁶. Consequently, until the middle of 2023, the salary base was lower than in 2009 before the changes. The President of the Supreme Court raised the issue of judges' and court staff salaries with the Minister of Justice³⁷, and representatives of the judiciary raised concerns³⁸. Due to low remuneration, particularly of first instance judges, the Association of Judges in May 2023 conducted a two-week 'white strike', during which the participating judges postponed all but the urgent hearings³⁹. Legislative amendments adopted on 28 June 2023 increased the salary base of judges and state attorneys by 13%, which brought the salary base, when taken together with the 2019 increase, slightly above the 2009 level⁴⁰. The amendments were agreed with representatives of judges as

hearings, the extension of the possibility of giving on-line testimonies for victims of crime, the possibility to communicate with lawyers via a secure video link and the preparation of hearings for accused persons in pre-trial detention, and the introduction of e-communications'. The Commission found the milestone to be satisfactorily fulfilled on 10 November 2022. Communication to the Commission on the positive preliminary assessment of the second payment request of Republic of Croatia pursuant to Regulation (EU) 2021/241, C(2022)8209 final..

³³ The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 218 states: 'I) Amendments to the Code of Civil Procedure and the Administrative Disputes Act, which shall help to shorten court proceedings, speed up the resolution of administrative disputes, reduce the flow of cases and reduce costs [...] III) Amendments to the Law on Notaries to modernise the business of notaries through ICT solutions [...]'. The milestone is part of third payment request, hence it has not yet been assessed by the Commission.

³⁴ Figure 47, 2023 EU Justice Scoreboard. The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 226, to be implemented by end 2024, states: 'The new functionalities include publication of all first and second instance judgments on the Internet with elaborate search options and automated anonymisation methods that respect personal data protection rules'. A public procurement procedure is on-going to develop an IT solution for automatic anonymisation, publication and search of court decisions on a public portal.

³⁵ Figure 47, 2023 EU Justice Scoreboard.

³⁶ The base for calculating the salaries of judicial officials was reduced by 4.6% in 2009, by an additional 3% in 2013, and by additional 6% in 2014. In mid-2023, the gross base salary was HRK 4,710.59 (EUR 625), while in 2009 it was HRK 4,873.83 (EUR 647).

³⁷ Supreme Court, Press release of 28 March 2023, and Press release of 17 April 2023. The Minister announced that the salary base for judges would be linked to an objective criterion, to prevent it being under the undue influence of the legislative or executive branch.

³⁸ European Association of Judges, Statement of 2 June 2023, and European Network of Councils for the Judiciary, Statement by the Executive Board on financial security in the context of judicial independence, 25 May 2023.

³⁹ According to the Association of Judges, about 70% of first instance court judges participated in the strike.

⁴⁰ The amendments concern the Law on Salaries of Judges and other Judicial Officials and would raise the salary base to EUR 706,50 (from the previous EUR 625). In addition, the amendments include an increase in the coefficient for calculating the salaries of judicial officials in first-instance judicial bodies (from the current 3,54 to 4,21). According to the Government, these amendments are the first phase and the initial step in improving the financial position of judicial officials and the established working group, comprised of judges and deputy state attorneys from all levels of judicial bodies, continues to work on finding an adequate solution for the comprehensive regulation of the salary system of judges and deputy state attorneys, which would

first measures, with the expectation that additional regulatory changes should follow by end 2023 to address the outstanding need for defining objective criteria for adjusting salaries of judges and state attorneys, such as indexation⁴¹. The salaries of Croatian judges and state attorneys were low in 2021 when compared to the average national salary⁴², which has made working in the justice system less attractive, as highlighted by representatives of the judiciary⁴³. This has also been reflected in the increased number of resignations, as pointed out by the Ombudsperson⁴⁴. In 2022, 49 judges requested to be released from duty, a 35% increase compared to 2021 and the highest number in last few years⁴⁵. The situation regarding judicial staff has also presented a challenge, as due to the low attractiveness of the positions there has been a continuous outflow of people and lack of interest in the vacancies, which sometimes threatens the normal functioning of courts and state attorney's offices⁴⁶. In 2022, the remuneration of judicial staff increased by 5 p.p. Due to the low remuneration, the trade union representing judicial staff on 5 June 2023 began a strike⁴⁷. On 15 June 2023, the Government agreed to a temporary increase of the judicial staff's salaries, applicable from June 2023 until a systemic solution is found in the context of the ongoing reform of the law governing public officials' salaries,⁴⁸. Considering the situation and developments, the level of salaries of judges, state attorneys, and judicial staff are being addressed, although concerns remain. According to Council of Europe recommendations, judges' remuneration should be commensurate with their profession and responsibilities and be sufficient to shield them from inducement aimed at influencing their decisions⁴⁹. The Venice Commission has also stated that a sufficient remuneration is necessary to reduce the danger of corruption of prosecutors⁵⁰.

include the indexation of the salary base and the introduction of salary grades for judicial officials in first-instance judicial bodies, as well as other material rights of judicial officials. Written contribution from the Ministry of Justice and Public Administration in the context of country visit to Croatia.

⁴¹ Written contribution from the Association of judges in the context of country visit to Croatia.

⁴² Figure 34, 2023 EU Justice Scoreboard.

⁴³ Information received from the Association of Judges, State Judicial Council, State Attorney's Office and the State Attorney's Council in the context of the country visit to Croatia.

⁴⁴ People's Ombudsperson, 2022 Report, p. 128.

⁴⁵ In 2021, 32 judges requested to be released from duty (20 in 2020, 32 in 2019). State Judicial Council, Reports for 2022 and 2021.

⁴⁶ Information received from the Supreme Court and State Attorney's Office, and written contribution from the Trade union of state and local officials and employees in the context of the country visit to Croatia. According to the Trade union, the base salary of judicial staff remained unchanged from 2009 until 2017, since when it increased by 33 p.p.

⁴⁷ On 19 June 2023, the Supreme Court confirmed the County court decision that the strike of judicial staff is legal.

⁴⁸ The temporary increase adopted in a Government Decision increased the salaries of 7 272 out of 7 554 judicial staff in courts and state attorney's offices in the amount between EUR 60 to EUR 100. Ministry of Justice, Press release: Ministry continues to work towards a comprehensive solution for the salary system, of 20 June 2023.

⁴⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 54, and Court of Justice of the European Union, judgment of 27 February 2018, C-64/16, *Associação Sindical dos Juizes Portugueses*, para. 45, 'Like the protection against removal from office of the members of the body concerned [...], the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence'.

⁵⁰ Venice Commission, Independence of the Judicial System, Part II: The Prosecution Service, CDL-AD(2010)040, para. 69.

The communication about the work of the judiciary could be improved, as also recommended by the People’s Ombudsperson. Since 2016, the level of perceived judicial independence in Croatia has remained very low both among the general public and companies. While significant efficiency and quality issues in the justice system remain, there have been improvements in a number of areas, which have not yet led to an improved perception⁵¹. Most courts have dedicated staff for communicating with the public, but press events to present the regular work of courts and state attorney’s offices are not common. The People’s Ombudsperson repeated its recommendation that the Justice Academy should, in cooperation with the media, conduct training of journalists on the work of the judiciary⁵². The Ombudsperson stressed that in addition to courts’ press releases, more structured communication with the media could contribute to the delivery of accurate and complete information to the public.

Efficiency

The overall number of pending cases was reduced, while the length of trials mostly increased. According to the 2023 EU Justice Scoreboard, the backlogs and length of proceedings remain among the most considerable in the EU⁵³. In 2022, the average length of proceedings in the first instance courts remained among the longest in the EU and increased to 1 187 days in litigious commercial cases (1 000 in 2021), 709 days in litigious civil cases (673 in 2021), and to 1 054 days in criminal cases at Municipal courts (765 in 2021), while they decreased to 965 days in criminal cases at County courts (982 in 2020)⁵⁴. The administrative courts at all instances⁵⁵ and the second instance civil and commercial courts⁵⁶ mostly continued to function efficiently. The Supreme Court saw a large decrease in pending cases, although the average length of case processing increased⁵⁷. In 2022, the total number of pending cases in

⁵¹ For example, in some jurisdictions, there are systematic public communication efforts with different court users through means of dedicated judges and prosecutors tasked with communicating with the public and presenting how the justice system operates – outside the more mediatic court cases that are usually well covered by the media.

⁵² People’s Ombudsperson, 2022 Report, p. 128.

⁵³ Figures 6-15, and 23, 2023 EU Justice Scoreboard.

⁵⁴ Written contribution from the Ministry of Justice and Public Administration in the context of the country visit to Croatia.

⁵⁵ In 2022, in first instance administrative courts pending cases further decreased by 14% (compared to 2021) and average length slightly increased to 195 days (170 in 2021). At second instance High Administrative Court, the pending cases in 2022 increased by 25% but average length of trials decreased to 157 days (190 in 2021). Written contribution from the Ministry of Justice and Public Administration in the context of the country visit to Croatia.

⁵⁶ At County Courts as second instance, litigious civil cases took 170 days on average (166 in 2021), and criminal took 103 days (91 in 2021), but pending cases in 2022 increased in both categories, by 8% and 28%, respectively. At the High Commercial Court, litigious commercial cases took 217 days on average (209 in 2021) and pending cases in 2022 further decreased by 16%, reaching a historically low level. Written contribution from the Ministry of Justice and Public Administration in the context of the country visit to Croatia.

⁵⁷ In 2022, pending civil cases decreased by 22% (mostly due to a further increase in resolved cases) and criminal by 59% (compared to 2021), mostly due to the creation of the new High Criminal Court, which took over the criminal appeals from 2021 onwards. Average length of case processing increased to 607 in civil cases (560 in 2021) and to 319 in criminal cases (257 in 2021). Written contribution from the Ministry of Justice in the context of the country visit to Croatia.

the justice system decreased by 11% (to around 414 000 pending cases, compared to 2021)⁵⁸. At first instance courts, backlogs decreased by 21% in litigious civil and commercial cases, mostly due to a large decrease in incoming cases, combined with a further increase in resolved civil cases, but stagnated in criminal cases.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Justice and Public Administration is the central corruption prevention body, with a dedicated Sector for Preventing Corruption. The Council for the Prevention of Corruption⁵⁹ and the National Council for Monitoring the Implementation of the Strategy for Combating Corruption report to the Parliament twice a year. There is a specialised National Police Office for the Suppression of Corruption and Organised Crime (PNUSKOK), as well as a prosecutor's Office for the Suppression of Corruption and Organised Crime (USKOK), who bring corruption and organised crime cases in first instance county courts in Zagreb, Split, Osijek and Rijeka, with the High Criminal Court acting as the appellate court for these cases. The Commission for the Resolution of Conflicts of Interest (CRC) has competences to prevent corruption and strengthen the integrity of public office, such as the supervision of asset declarations. The State Commission on Control of Public Procurement Procedures is an independent tribunal responsible for reviewing appeals regarding public procurements. The People's Ombudsperson is managing 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 2022 Corruption Perceptions Index by Transparency International, Croatia scores 50/100, ranks 24th in the European Union and 57th globally⁶⁰. This perception remained relatively stable⁶¹ over the past five years. The 2023 Special Eurobarometer on Corruption shows that 96% of respondents consider corruption to be widespread in their country (EU average 70%) and 54% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁶². As regards businesses, 92% of companies consider that corruption is widespread (EU average 65%) and 57% consider that corruption is a problem when doing business (EU average 35%)⁶³. Furthermore, 23% of respondents find that there are enough successful prosecutions to deter people from corrupt

⁵⁸ Information received from the Ministry of Justice and Public Administration in the context of the country visit to Croatia.

⁵⁹ A government advisory body composed of representatives of public institutions and non-governmental organisations. It is mandated to monitor the implementation of Action plans, with the assistance of the Sector for Preventing Corruption of the Ministry of Justice and Administration.

⁶⁰ Transparency International (2023), Corruption Perceptions Index 2022. 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).

⁶¹ In 2018, the score was 48, while in 2022, the score was 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.

⁶² Special Eurobarometer 534 on Corruption (2023). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 523 (2022).

⁶³ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 507 (2022).

practices (EU average 32%)⁶⁴, while 17% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 30%)⁶⁵.

The first action plan for 2022-2024 under the Anti-Corruption Strategy was adopted. The Strategy for the Prevention of Corruption 2021-2030 lists 95 measures to achieve five objectives and will be complemented by three-year plans. The first action plan, covering the period 2022-2024⁶⁶ was adopted in July 2022 and contains 206 concrete actions in specific sectoral priority areas, ranging from reducing the risk of corruption in the allocation of EU funds, public procurement and other priority sectors such as law enforcement and transport⁶⁷. For instance, Croatian authorities saw the need to modernise the payment of fines by abandoning the practice of paying fines directly in cash to police officers, which was recognised as a corruption risk in police work. As of 1 July 2022, Croatia shifted to the non-cash recovery of fines via digital devices in the police⁶⁸. The Ministry of Justice and Administration will draw up annual implementation reports for the action plan, which will be validated by the Council for the Prevention of Corruption and, following acceptance by the Government, published on the official website of the Ministry of Justice and Administration⁶⁹.

Croatia committed to taking legislative action on bribery of foreign public officials. The negotiation process for accession by Croatia to the Organisation for Economic Co-operation and Development (OECD) started in January 2022⁷⁰. Within that framework, Croatia aims to accede to the OECD Anti-Bribery Convention⁷¹ and its Working Group. According to the OECD, enforcement against legal persons for bribery offences is lacking and Croatia has yet to investigate a transnational bribery case⁷². In March 2023⁷³, Croatia committed to take legislative action by September 2023 to better cover foreign public officials in the scope of the bribery offence, expand liability for legal persons and to increase the fine for legal persons that is currently at a maximum of EUR 1,3 million. By the end of September 2023, there also should be an explicit legal provision preventing the tax deductibility of bribes.

The investigation of high-level corruption continued, and the overall number of indictments and judgments increased. The specialised anti-corruption police (*PNUSKOK*) and prosecution (*USKOK*) continue to report that the cooperation in investigating and prosecuting corruption offences is working well, also with the EPPO⁷⁴. The 2022 Report of the

⁶⁴ Special Eurobarometer 534 on Corruption (2023).

⁶⁵ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023).

⁶⁶ Decision to adopt an Action Plan for 2022-2024 accompanying the Anti-Corruption Strategy for 2021-2030, OG No 88/2022.

⁶⁷ Input from Croatia for the 2023 Rule of Law Report, p. 17.

⁶⁸ Input from Croatia for the 2023 Rule of Law Report, p. 21. By July 2022, 600 devices were purchased for this purpose and deployed to police administrations across Croatia.

⁶⁹ Input from Croatia for the 2023 Rule of Law Report, p. 19.

⁷⁰ Input from Croatia for the 2023 Rule of Law Report, p. 23.

⁷¹ OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transaction.

⁷² OECD (2023) Croatia: Accession to the Anti-Bribery Convention, Full Assessment Report, DAF/WGB(2023) p. 15-18.

⁷³ Idem, p. 11 and OECD (2022), Fighting Transnational Bribery in Croatia: Assessment of Legal and Policy Frameworks, OECD Publishing, Paris.

⁷⁴ Information received in the context of the country visit to Croatia from PNUSKOK and USKOK, AND Contribution from EPPO for the 2023 Rule of Law Report.

State Attorney's Office⁷⁵ shows that while the number of criminal notifications on corruption decreased⁷⁶, the number of investigations remained relatively stable⁷⁷. As in 2021, the vast majority of the criminal notifications in 2022 were dismissed as they were usually made by citizens and concerned the alleged abuse of functions by public officials⁷⁸. In 2022, the State Attorney's Office initiated 178 indictments for corruption, which is significantly higher than in 2021 (69 in 2021, 84 in 2020, 109 in 2019). In the same period, the Courts delivered judgments regarding 182 persons, which is a significantly higher number compared to 67 in 2021 (or 92 in 2020)⁷⁹. In 2022, 1 187 corruption offences were reported by PNUSKOK to the USKOK (912 in 2021)⁸⁰. Most of these concerned the criminal offence of abuse of position and authority (68%) and the criminal offence of accepting bribes (24%)⁸¹. 2022 saw a number of high-level corruption cases, including for the first time a sitting minister⁸². USKOK indicted persons in alleged criminal offences involving the energy companies INA (involving damage of EUR 133 million) and JANAF⁸³. The National Council for Monitoring Anti-corruption Strategy Implementation held a session to discuss the INA affair and heard 11 invitees. However, the Committee on the Constitution, Standing Orders and Political System declared that the public hearing is unlawful as this concerns an ongoing judicial procedure. Following this, the invited members of the Government did not participate⁸⁴.

The excessive length of investigation, prosecution and adjudication of corruption offences continued to undermine the effectiveness of the anti-corruption system. As in previous

⁷⁵ State Attorney's Office, Report for 2022, section 12.8.

⁷⁶ In 2022, the State Attorney's Office received criminal notifications regarding 1 165 alleged suspects of corruption offences, representing 61% of the total criminal notifications received by USKOK (down from 1 366 in 2021 and 1 271 in 2020). This shows about 15% decrease in the number of alleged suspects compared to 2021.

⁷⁷ In 2022, investigations were opened concerning 130 persons, compared to 135 in 2021, 108 in 2020 and 142 in 2019.

⁷⁸ To be noted that in 2022, 88% of these criminal complaints were dismissed, while in 11% a decision was made to open an investigation (concerning 130 suspects), which are percentages similar to 2021 (90% dismissed, and in 10% investigation was opened).

⁷⁹ Out of the 182 final judgments in 2022, 153 were convictions for corruption (i.e. conviction rate of 84%, compared to 88% in 2021 and 85% in 2020). As regards the sanctions for corruption offences, 65 persons received jail sentences (36 in 2021, and 31 in 2020; out of 65 convictions in 2022, for 24 persons jail sentence was changed into work for the public good) and 87 conditional sentences (19 in 2021 and 47 in 2020).

⁸⁰ The statistics in PNUSKOK count criminal offences, not number of cases or suspects. A single suspect may have committed several offences. Information received in the context of the country visit to Croatia from PNUSKOK.

⁸¹ Information received in the context of the country visit to Croatia from PNUSKOK. PNUSKOK distinguishes 8 corruption offences. It reports a trend of corruption offences occurring during the implementation of public procurement procedures, by favouring certain companies and individuals of responsible persons in commercial companies that are partly owned by Croatia, as well as of in state authorities and regional and local (regional) self-government units.

⁸² Moreover, one of the defendants was the current Deputy Prime Minister and another a former Minister (see input received from Croatia for the 2023 Rule of Law Report, p.23).

⁸³ Information received in the context of the country visit to Croatia from USKOK. According to written contribution from the Ministry of Justice and Public Administration in the context of the country visit to Croatia, there are no specific measures taken to address corruption risks in the energy sector. By contrast, good results have been achieved with specific measures in the area of transport and water infrastructure such as increased transparency of the awarding of grants and subsidies, as well as strengthened inspection activities.

⁸⁴ Information received in the context of the country visit to Croatia from the National Council for Monitoring Anti-corruption Strategy Implementation.

years⁸⁵, the proceedings in corruption cases incurred much delay⁸⁶. This affects trust of citizens in the ability of the institutions to tackle this form of corruption⁸⁷. Some stakeholders suggest that excessive length of proceedings fuels public perception that enforcement is selective and focused on low-level corruption⁸⁸. Croatia's Recovery and Resilience Plan contains a target which requires Croatia to reduce the average length of court cases (i.e., adjudication) for corruption and organised crime offences by end June 2026⁸⁹. The length of investigations and prosecutions could also be improved by better regulation and more resources. In 2022, the length of investigations led by the state attorneys in USKOK slightly increased. In only about 25% of USKOK cases⁹⁰, the investigation was finished within six months or sooner, which is a decrease compared to previous years (35% in 2021 and 28% in 2020). In about 29% of cases, the investigation lasted up to one year (40% in 2021 and 35% in 2020), while in the remaining 46% of cases, the investigation lasted up to 18 months or above, which shows that significantly more investigations were long compared to the past years (25% in 2021 and 35% in 2020)⁹¹. As noted in the 2022 Rule of Law Report⁹², the Anti-Corruption Strategy envisages revisions to the Criminal Procedure Code and the Law on the USKOK, as well as increasing the capacity of the specialised prosecution, also with a view of ensuring the completion of proceedings within a reasonable timeframe⁹³. The authorities have informed that working groups have been set up to prepare draft legislation, but the timeline for the delivery of this legislation is yet to be determined⁹⁴.

Anti-corruption police and prosecution are optimising their limited human resources. Both USKOK and the State Attorney's Office are facing difficulties finding sufficient staff, with the State Attorney's Office operating with only 52 out of the 82 positions filled⁹⁵. Low remuneration and high workload are reported as being the biggest challenges to attract and

⁸⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 13 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 11.

⁸⁶ See the efficiency data under Justice system/Efficiency. To be noted that according to the 2023 EU Justice Scoreboard, the average length of first instance court proceedings when dealing with bribery cases was second longest in the EU (632 days in 2021).

⁸⁷ See for instance: Dešković, M (2021), Stigla Odluka, The High Criminal Court rejected the defence request in the Mamić case: Trial continues in Osijek.

⁸⁸ As mentioned in OECD (2022), Fighting Transnational Bribery in Croatia: Assessment of Legal and Policy Frameworks, OECD Publishing, Paris, p. 8.

⁸⁹ The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 238 states: 'Reduction by 200 days of the average length of court cases for corruption and organised crime offences compared to 1Q/2021 (999 days).'

⁹⁰ Whereas USKOK is competent in corruption and organised crime, the vast majority of its cases concern corruption offences. Of the criminal reports received in 2022, 54% concern abuse of office and 13% bribery. Organised crime concerns 14% and drugs 3%. There are no data available that differentiate according to crime.

⁹¹ State Attorney's Office, 2022 Report, p. 171.

⁹² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 13.

⁹³ Ibidem.

⁹⁴ Information received in the context of the country visit to Croatia from the Ministry of Justice and Public Administration.

⁹⁵ The USKOK capacity remains at 34 deputy prosecutors with 29 positions filled. USKOK operated in the first half of 2023 with a capacity of 27 - 30 out of 34 available posts for deputy prosecutor. USKOK has most problems filling the open posts for administrative support with only 46 out of 87 occupied. The monthly salary is less than EUR 700. They operated at capacity of 27 to 30 out of 34 available posts for deputy prosecutor.

retain staff⁹⁶. PNUSKOK only has limited capacity to collect evidence but expects to acquire technical equipment to help with digital forensics in 2023⁹⁷. USKOK submitted that efficiency gains could also be made by improving coordination and planning of court hearings⁹⁸. In December 2022, USKOK signed an agreement with the Tax Administration to deepen cooperation between the two institutions, granting USKOK direct access to certain databases of the Tax Administration⁹⁹.

The resources of the Commission for the Resolution of Conflicts of Interest (CRC) have been increased, while practical difficulties with the verification of assets remain. The Law on the Prevention of Conflicts of Interest, which came into force on 25 December 2021¹⁰⁰, has shown first beneficial effects on the transparency and integrity of the public sector. The obligation to declare conflicts of interests is proving to be effective¹⁰¹. The CRC's resources have been increased, in order to align them with its increased responsibilities under the new law¹⁰². Accordingly, in 2022, the CRC provided 706 opinions to public officials, which is a threefold increase compared to 2021¹⁰³. The CRC stated that the requirement in the law for all 4 000 obliged entities to declare their assets once a year in January does not necessarily lead to

⁹⁶ Information received from USKOK and the State Attorney's Office in the context of the country visit to Croatia.

⁹⁷ Information received from PNUSKOK in the context of the country visit to Croatia. According to input from Croatia for the 2023 Rule of Law Report, the Criminal Police Directorate, within which PNUSKOK also operates, continuously acquires equipment for digital forensics in order to be able to carry out the ordered evidentiary actions within the framework of criminal investigations.

⁹⁸ Information received from USKOK in the context of the country visit to Croatia. Plea bargains are also mentioned by USKOK as a way to decrease the workload, but it should be noted that 65% of cases already result in out of court settlements.

⁹⁹ Input from Croatia for the 2023 Rule of Law Report, p. 15 and information received from USKOK in the context of the country visit to Croatia, the Tax Administration trained and is now hosting financial investigators from USKOK who can directly access the databases of the Tax Administration with data to which they previously only had indirect access. The EPPO is negotiating a similar arrangement with the Tax Administration and concluded a working arrangement with the Ministry of Interior in October 2022 to strengthen cooperation and to grant direct access to data contained in the Ministry's records, written input from the EPPO for the 2023 Rule of Law Report.

¹⁰⁰ Law on the Prevention of Conflict of Interest, OG No 143/21. Adoption of the new Law on the Prevention of Conflict of Interest is a Milestone (no. 232) within the Croatian Recovery and Resilience Plan which the Commission found to be satisfactorily fulfilled on 10 May 2022. Communication to the Commission on the positive preliminary assessment of the first payment request of Republic of Croatia pursuant to Regulation (EU) 2021/241, C(2022)3120 final.

¹⁰¹ This is evidenced for instance in three cases where the Commission for the Resolution of Conflicts of Interests treated as a potential conflict the case of a Parliamentarian voting in favour of his or her appointment as a Minister. Information received in the context of the country visit to Croatia from the Commission for the Resolution of Conflicts of Interest.

¹⁰² Input from Croatia for the 2023 Rule of Law Report, pp. 14-15; information received in the context of the country visit to Croatia from the Commission for the Resolution of Conflicts of Interest; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 14. The Commission continues to be composed of 5 members, while the number of officials has increased in 2022 from 14 to 17 officials with 5 more to be recruited before end 2024. The budget for 2021 was EUR 860.000, for 2022 EUR 1.2 million and for 2023 EUR 1.3 million.

¹⁰³ Information received in the context of the country visit to Croatia from the Commission for the Resolution of Conflicts of Interest. In 2022, the Commission made 56 decisions to initiate procedures, 51 decisions not to initiate a procedure, 59 final decisions.

more useful information¹⁰⁴, but is instead putting a serious strain on its resources. A new IT tool will help officials declare their assets, particularly by prompting/pre-filling data that the Government already has, such as tax and land registry data¹⁰⁵. Difficulties remain as regards the verification of declarations by the CRC. Most notably, the CRC cannot access bank accounts or oblige private entities to submit information¹⁰⁶. As a result, the CRC still encounters practical difficulties to perform the regular checks required by law. The CRC is also tasked with supervising the obligation of municipal council members to declare shareholdings in companies (if above 5%). In practice, it has proven to be difficult for the CRC to verify whether declarations are made, as these are not made to the CRC, but to local councils. Even where the CRC would detect non-compliance, it lacks the power to investigate and impose a sanction, thereby preventing the CRC from carrying out its supervisory task efficiently¹⁰⁷. The asset declarations of judges and prosecutors are being verified by the State Judicial and State Attorney's Council¹⁰⁸.

Codes of Conduct were adopted for members of Parliament and almost all local and regional administrations have introduced them too. Parliament adopted a Code of Ethics for its members, which is in force since 10 December 2022¹⁰⁹ and contains provisions on the prevention of conflicts of interest of members' private and public interests and their interactions with citizens and the media. The implementation of the Code is monitored internally by the Committee on the Constitution, Rules of Procedure and Political System. Violations of the Code are not subject to sanctions¹¹⁰. As regards the Code of Conduct for State Officials in Executive Bodies, which was adopted in May 2022¹¹¹, the Implementation Council can provide its opinion on compliance with the Code at the request of the official, its immediate superior,

¹⁰⁴ This is because those entities already have to declare assets when taking up duties, ending duties and one year thereafter. Information received in the context of the country visit to Croatia from the Commission for the Resolution of Conflicts of Interest.

¹⁰⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 15; Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Croatia, Milestone no. 241, of 16 July 2021.

¹⁰⁶ Public bodies are required to submit information upon request from the Commission for the Resolution of Conflicts of Interest, and they always do so, according to information received from the Commission for the Resolution of Conflicts of Interest in the context of country visit to Croatia. Measures can be taken if the authorities demonstrate that there is unexplained wealth, i.e. a discrepancy between the lawful income and actual property, which is difficult to establish without access to the bank information.

¹⁰⁷ Information received in the context of the country visit to Croatia from the Commission for the Resolution of Conflicts of Interest.

¹⁰⁸ See above, section Independence/Justice system in this chapter. See also GRECO Fourth Evaluation Round – Second Addendum to the Second Compliance Report, recommendation vii. and xi, para. 20.

¹⁰⁹ The Code of Ethics for Members of the Croatian Parliament, OG No 140/22. Adoption of a code of ethics for parliamentarians and a code of ethics for officials in the executive is a Milestone (no. 234) within the Croatian Recovery and Resilience Plan. The milestone is due to be completed by the end of 2023, hence it has not yet been assessed by the Commission.

¹¹⁰ Input from Croatia for the 2023 Rule of Law Report, p. 20.

¹¹¹ Code of Conduct for State Officials in Executive Bodies, OG no. 54/2022. This was adopted in May 2022, see 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 15. The Code applies to the members of the Government and other officials in the Croatian executive bodies, notably: the head of the Office of the Prime Minister of the Republic of Croatia, heads of the State administrative organizations, Secretaries of State, Director of the Federal of the Police, Chief Treasurer, Director of the Tax Administration, Director of the Customs, Secretary General of the Government of the Republic of Croatia, Spokesperson of the Government of the Republic of Croatia, Deputy Head of the Office of the Prime Minister of the Republic of Croatia and the Deputy Secretary General of the Government of the Republic of Croatia.

or at the request of the Office of the Prime Minister¹¹². It should be noted that special advisers to the ministers or the Government do not fall within the scope of that code, as they are not employed as public officials¹¹³. The Codes of Conduct for State Officials in Executive Bodies and Parliament on the one hand, and of the Law on the prevention of conflicts of interests on the other hand (enforceable with sanctions by the CRC), apply in parallel. The CRC remains the body in charge in relation to conflicts of interests and can open a case at any time, although there is a risk of diverging application of the respective codes¹¹⁴. The Ministry of Interior is still developing a new Code of Ethics for Police Officers to replace the existing one¹¹⁵, with no date for adoption announced¹¹⁶. Finally, as regards the obligation of local and regional representative bodies to adopt codes of conduct by June 2022 under the new Law on the Prevention of Conflict of Interest, by June 2023, the competent Ministry of Justice and Public Administration received 571 Codes out of 576 local and regional representative bodies¹¹⁷.

Some progress has been made regarding the introduction of comprehensive legislation in the area of lobbying. The 2022 Rule of Law Report recommended to Croatia to ‘introduce comprehensive legislation in the area of lobbying, including on persons with top executive positions, and set up a public register of lobbyists’¹¹⁸. A draft proposal for a Lobbying Law remains under preparation since 2021, and is expected to regulate lobbying, the organisation, content and manner of keeping a lobby register, the obligation to report on lobbying, restrictions on lobby activities, penalties for violations of the law and other lobbying issues. To date, six meetings of the dedicated working group have been held, with the initial intention to

¹¹² The council members were appointed in January 2023 and consist of five members, out of which two come from the executive branch and two are publicly recognized experts in the field of prevention of corruption and ethics in the public sector (external members) and one is a senior civil servant (not an official) from a state executive body whose competences include prevention of corruption or ethics.

¹¹³ Input from Croatia for the 2023 Rule of Law Report, p. 19 and information received from the Ministry of Justice and Public Administration in the context of the country visit to Croatia. In July 2022, the Law on the Government of the Republic of Croatia was amended to require special advisers of the Prime Minister and Ministers to declare their interests and impartiality at the time of their appointment (to be published on the Government’s website within 14 days of their appointment). In the event of the occurrence of circumstances that violate or could violate the impartiality of a special adviser or represent the existence of a conflict of interest or a possible conflict of interest, the special adviser is obliged to report it without delay to the Prime Minister or another member of the Government for whom he/she performs advisory work. Considering the important function of these special advisers vis-a-vis Ministers, it remains to be seen whether it is appropriate that they are bound by more lenient transparency rules than public officials.

¹¹⁴ In the contribution for the 2023 Rule of Law Report, GONG argues that the creation of the internal bodies shifts the responsibility from the Commission for the Resolution of Conflicts of Interest to the more executive bodies. There has so far been no experience-sharing between the CRC, and the Government’s Implementation Council and the parliamentary committee.

¹¹⁵ GRECO (2019) Fifth Evaluation Round - Evaluation Report, rec xiii, para 118 and GRECO (2021) Fifth Evaluation Round - Compliance Report, rec xiii, para 47. Croatia already reported in the previous review that it was developing the code, see Rule of Law Report 2022, p. 15.

¹¹⁶ Information received in the context of the country visit to Croatia from the Ministry of Interior.

¹¹⁷ The code of ethics has not yet been adopted by 5 local bodies.

¹¹⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 2. The lack of a comprehensive legislation in the area of lobbying has been raised in past Reports. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 11, and in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 14. See also GRECO (2021) Fifth Evaluation Round - Compliance Report, rec. v, para 23.

present the draft Law by the end of 2022¹¹⁹. On 16 June 2023, a draft Lobbying Law was submitted for public consultation, which aims to regulate lobbying covering any person elected, appointed, employed or otherwise engaged as an official, special adviser or servant in legislative, executive, state administration or local or regional self-government bodies. It includes rules on the organisation, content and manner of keeping a lobby register, the obligation to report on lobbying, restrictions on lobby activities and the verification and enforcement of the rules¹²⁰. Therefore, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

The State Electoral Commission and State Audit Office encountered some irregularities in the implementation of political party financing rules. Political actors¹²¹ are obliged to submit their financial reports, which are made available online on the web page of the State Electoral Commission¹²². The State Electoral Commission informed the State Attorney's Office in 2021 of 248 cases where political actors failed to provide an annual financial account (194 in 2020), and it decided in 72 cases to temporarily suspend the payment of financing (40 in 2020)¹²³. The State Audit Office carried out in 2022 financial audits of 53 political parties (eight more than the previous year) and five independent representatives over 2021, for which it issued 420 recommendations regarding irregularities¹²⁴. Less than half of the previous recommendations have been implemented¹²⁵.

Whistleblowers reported more irregularities to the People's Ombudsperson as a result of new legislation on the Protection of Reporters of Irregularities¹²⁶. The revised law, which entered into force on 23 April 2022, prohibits any form of retaliation against whistleblowers, whereby the burden of proof is on the persons or organisations to show that their action is not retaliation against the whistleblower¹²⁷. The amended law further enables persons to report irregularities either directly to the Ombudsperson or after having previously reported them to dedicated internal channels. As a result, in 2022 there was a 60% increase in the number of external reports compared to 2021 (59 in 2022, 32 in 2021) while the number of internal reports decreased by 23% (37 in 2022, 48 in 2021). The capacity of the Ombudsperson was reinforced, with five new public servants working on whistleblowing since August 2022.¹²⁸ Croatia further plans to implement a national media campaign by the end of 2023 to raise awareness of the

¹¹⁹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 16; Information received in the context of the country visit to Croatia from the Ministry of Justice and Public Administration.

¹²⁰ Input from Croatia for the 2023 Rule of Law Report.

¹²¹ Political actors are political parties, independent representatives and members of representative bodies of local and regional self-government units elected from a list of a group of voters.

¹²² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 16- 17.

¹²³ Annual reports of 2020 and 2021 of the State Electoral Commission, published in January 2022 and January 2023.

¹²⁴ The State Audit Office informs the State Attorney's Office and submits all documentation on all established violations of the Law.

¹²⁵ Information received from the State Audit Office in the context of the country visit to Croatia.

¹²⁶ Act on the Protection of Reporters of Irregularities, OG No 46/22. Adoption of amendments to the Act on the protection of persons reporting irregularities is a Milestone (no. 233) within the Croatian Recovery and Resilience Plan. The milestone is part of third payment request, hence it has not yet been assessed by the Commission.

¹²⁷ Input from Croatia for the 2023 Rule of Law Report, p. 21.

¹²⁸ However, according to information received from the Ombudsperson in the context of the country visit to Croatia, additional requests for a dedicated deputy Ombudsperson for whistleblowing was not realised.

harmfulness of corruption and to inform the general public about the possibilities and need to report irregularities¹²⁹.

The capacity of the State Commission for Supervision of Public Procurement Procedures is planned to be strengthened. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 26% of companies in Croatia (EU average 26%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹³⁰. On 24 May 2022, the State Commission for Supervision of Public Procurement Procedures adopted its Code of Ethics to codify existing practices and prevent potential conflicts of interest among its members¹³¹. In 2022, the State Commission received 885 appeals (requests for review before the State Commission), a decrease compared to 2021 (1 157 appeals)¹³². In 2022, the State Commission reviewed 4,75% of the total number of public procurement procedures, which represents a significant decrease compared to 2020 (6,75% in 2021, and 7,23% in 2020).

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Croatian legal framework on media freedom and pluralism is based on the Constitution and sectoral legislation. The legal framework guarantees the basic right for information and the access to public documents. The revised Electronic Media Act was adopted in October 2021¹³³, updating, amongst others, provisions on the transparency of state advertising and media ownership as well as making changes to the rules on media concentration¹³⁴. A future revision of the Media Act continues to be expected¹³⁵. The Government has further announced the preparation of a National Plan for the Development of Culture and Media for the period from 2023 to 2027 as a mid-term strategy for the sector¹³⁶.

¹²⁹ Input from Croatia for the 2023 Rule of Law Report, p. 21. This would also implement recommendations made to Croatia by the OECD, see OECD (2023) Public sector integrity input to Pillar II for European Commission Rule of Law Report, p. 6 and OECD Southeast Europe Programme (2022), Fair Market Conditions for Competitiveness in the Adriatic Region, Croatia Country Profile, p. 12.

¹³⁰ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). This is at the same level as the EU average.

¹³¹ Input from Croatia for the 2023 Rule of Law Report, p. 23. Information received in the context of the country visit to Croatia from the State Commission on Public Procurement.

¹³² One reason for this decrease could be found in the increase of the fees for review in October 2022, when also it became mandatory to introduce appeals electronically. Information received from the State Commission for the Control of Public Procurement Procedures in the context of the country visit to Croatia from the State Commission for the Control of Public Procurement Procedures.

¹³³ Entry into force of the Electronic Media Act and Law on Copyright and Related Rights is a Milestone (no. 25) within the Croatian Recovery and Resilience Plan. The Commission found the milestone to be satisfactorily fulfilled on 10 November 2022. Communication to the Commission on the positive preliminary assessment of the second payment request of Republic of Croatia pursuant to Regulation (EU) 2021/241, C(2022)8209 final.

¹³⁴ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 19-20.

¹³⁵ Input from Croatia for the 2023 Rule of Law Report, p. 23; Information received from the Ministry of Culture and Media in the context of the country visit to Croatia.

¹³⁶ <https://min-kulture.gov.hr/o-ministarstvu-15/kulturne-politike-52/stratesko-planiranje-izrada-nacionalnog-plana-razvoja-kulture-i-medija-za-razdoblje-od-2022-do-2027-godine/22285>; Croatia ranks 42nd in the 2023 Reporters without Borders World Press Freedom Index compared to 48th in the previous year.

The Agency for Electronic Media is financially independent while the safeguards for the independence of its Council could be further improved. At the beginning of 2023, a new member was appointed to the Council of the Agency for Electronic Media, the governing body of media regulatory authority. In addition, the mandate of two members of the Council was renewed¹³⁷. According to the Electronic Media Act and the Constitution, the Council members are appointed by simple majority in Parliament for a renewable five-year mandate, following a proposal by the Government based on a public call for nominations¹³⁸. The appointments followed an intermediary extension of the original mandate by six months, in line with the provisions of the Electronic Media Act¹³⁹. Some stakeholders argue that the decision-making procedure following the public call for nominations lacked transparency, as there was no public hearing of candidates¹⁴⁰. Furthermore, the appointment of the body by the parliamentary majority continues to be perceived by some as compromising the political independence of the Council for Electronic Media¹⁴¹. At the same time, the independent financing of the Agency for Electronic Media continues to be ensured¹⁴². The 2023 Media Pluralism Monitor concludes that there is a medium risk regarding the independence and effectiveness of the media authority¹⁴³. The Agency for Electronic Media has an important role in managing relevant funds promoting media pluralism and supporting journalism and media literacy¹⁴⁴. This includes a project on fact-checking, financed under Croatia's Recovery and Resilience Plan¹⁴⁵. Since the 2022 Rule of Law Report, there have been no developments regarding the potential establishment of an independent, self-regulatory media council representing both journalists and publishers¹⁴⁶.

Media ownership information is publicly available. Ownership information for audiovisual and digital media is available via a public register managed by the Agency for Electronic

¹³⁷ In accordance with the Electronic Media Act (Article 76). Information received from the Ministry of Culture and Media and the Agency for Electronic Media in the context of the country visit to Croatia.

¹³⁸ Electronic Media Act, Article 76; Contribution from GONG for the 2023 Rule of Law Report.

¹³⁹ Electronic Media Act, Article 76; Information received from the Ministry of Culture and Media and the Agency for Electronic Media in the context of the country visit to Croatia.

¹⁴⁰ Information received from GONG in the context of the country visit to Croatia; See also GONG, Press release of 2 March 2023, Gong received the names of candidates for the Council for Electronic Media: The choice must be made more transparent; GONG, Press release of 6 March 2023, Parliament: members of Parliament could have received the list of candidates for the Council for Electronic Media if they had completed the application form.

¹⁴¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 18; information received from GONG in the context of the country visit to Croatia.

¹⁴² 2022 Media Pluralism Monitor, p. 11 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 16.

¹⁴³ 2023 Media Pluralism Monitor, p. 11.

¹⁴⁴ <https://npoo.aem.hr/category/javni-pozivi-i-natjecaji/>; Information received from the Agency for Electronic Media in the context of the country visit to Croatia.

¹⁴⁵ The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 27 states: '[...] a system of media fact-checking shall be set up by the Electronic Media Agency, including the development of procedures and rules, the creation of registers and the strengthening of the digital competence capacities of fact-checkers, as well as the development of technological programmes, platforms and media communication systems [...]'; Tender procedure for contracts for development of media fact-checking and public disclosure system was published on 30 December 2022. <https://www.aem.hr/blog/2022/12/30/objavljen-javni-poziv-za-uspostavu-sustava-provjere-tocnosti-informacija>; Input from Croatia for the 2023 Rule of Law Report, pp. 24-25.

¹⁴⁶ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 18.

Media. For print media, the information is gathered by the Chamber of Commerce¹⁴⁷. Croatia's Recovery and Resilience Plan requires the Government to set up an information system to publish information on ownership of all types of media in a single register by the end of June 2026¹⁴⁸. While the Electronic Media Act requires ownership information to be backed-up with extracts from the register of ultimate beneficial ownership, stakeholders continue to raise concerns that in certain cases underlying ownership structures may remain hidden¹⁴⁹. The 2023 Media Pluralism Monitor continues to indicate a medium risk for the transparency of media ownership¹⁵⁰. There have been no changes concerning the rules on media concentration since the 2022 Rule of Law Report¹⁵¹.

No further progress has been made on further strengthening the framework for the public tender procedure for state advertising in local and regional media. The 2022 Rule of Law Report recommended to Croatia to “further strengthen the framework for a fair and transparent allocation of state advertising, by establishing clear criteria, good practices and oversight measures to guarantee the effective functioning of the new public tender procedure for local and regional media”¹⁵². The concerned tender procedure was introduced with the revision of the Electronic Media Act in 2021 to complement the existing requirement for public authorities and institutions as well as predominately state-owned companies to spend a minimum of 15% of their annual funds earmarked for the promotion of their services or activities for advertising in regional or local television or radio programmes or electronic publications¹⁵³. The law requires such funds to be distributed based on a public call which must list relevant criteria without any further specifications on the nature of these criteria or procedural safeguards (for example concerning the authority that adopts and implements these criteria)¹⁵⁴. In this context, stakeholders have raised concerns regarding the fair and transparent allocation of these funds¹⁵⁵. A 2023 study commissioned by a journalists' association found that local providers of electronic publications depend substantially on the income from local governments and draws a negative conclusion on the journalistic coverage of local news by such portals¹⁵⁶. In this regard, it is particularly important to establish good practices and

¹⁴⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 19.

¹⁴⁸ The Council adopted the Council Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, under which the Milestone no. 27 states: ‘[...] A database and a system of disclosure of ownership structures and funding sources shall be set up by the Electronic Media Agency, including the creation of a register of obliged entities and the provision of all necessary technical preconditions to enable all media to fulfil their obligations in a simple and efficient manner’; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 19.

¹⁴⁹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 19; Information received from GONG in the context of the country visit to Croatia; 2023 Media Pluralism Monitor, p. 13.

¹⁵⁰ 2023 Media Pluralism Monitor, p. 13.

¹⁵¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 19-20.

¹⁵² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 2.

¹⁵³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 20; Electronic Media Act, Articles 38-39.

¹⁵⁴ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 20: “[...] the law does not contain any details regarding these criteria or the related procedure. In particular, there appear to be no safeguards regarding the authority that adopts and implements these criteria. In this regard, it will be important to establish good practices and effective oversight measures to ensure the well-functioning of the new public tender procedure.”

¹⁵⁵ Information received from the Ministry of Culture and Media in the context of the country visit to Croatia.

¹⁵⁶ The study found that most portals receive between 40-80% of its income from local governments. Even when the commercial advertising represents a more substantial source of income, it does not exceed 35%. Study

effective oversight measures to ensure the fair and independent functioning of the public tender procedure¹⁵⁷. To this end, journalists' representatives have developed recommendations for the allocation of funds to local media, including possible model criteria¹⁵⁸. In addition, some stakeholders continue to point to concerns that state advertising may also impact the independence of media outlets at national level¹⁵⁹. Since the entry into force of the relevant provisions in the Electronic Media Act, preliminary data shows that the majority of competent authorities have organised public calls, as required by the law¹⁶⁰. However, no further steps were taken to establish clear criteria or independent oversight mechanisms to ensure the fair and transparent allocation of state advertising¹⁶¹. Therefore, there has been no further progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

Public service broadcaster HRT has adopted a new strategy aiming at reinforcing its societal role, while some stakeholders continue to put into doubt its political independence. A new contract on the programming of HRT for the period between 2023 and 2027 has been concluded between the Government and the broadcaster¹⁶². Moreover, HRT has adopted a new strategy for the same period, aiming to increase the relevance of public service broadcasting¹⁶³. There have been no changes to the legal framework for the public service broadcaster HRT since the 2022 Rule of Law Report¹⁶⁴. HRT remains predominantly financed by a monthly fee collected from households, set by its Supervisory Board¹⁶⁵. The amount of this monthly fee has not changed since 2012¹⁶⁶. In view of the mounting financial pressure, with increasing costs also affecting the public service broadcaster, the question of the future financing model of the public service broadcaster has started to emerge as a topic for consideration¹⁶⁷. Concerns continue to be raised regarding the political independence of HRT¹⁶⁸, with a system giving the parliamentary majority a decisive influence over the public service broadcaster¹⁶⁹.

made by journalist Ivanka Toma, commissioned by the Association for protection of journalists' authorship rights, Portals in Croatia, a means of informing or manipulating, 14 February 2023.

¹⁵⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 20.

¹⁵⁸ According to the Croatian Association of Journalist, such evaluation criteria could include different indicators on the reporting of public information, the diversity of media, topics and social groups as well as organisational capacities. <https://hnd.hr/modeli-financiranja-lokalnih-medija>

¹⁵⁹ GONG, Press release of 31 October 2022, State funding without clear criteria – a media censorship tool?.; <https://rsf.org/en/country/croatia>; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 20.

¹⁶⁰ Additional input from Croatia for the 2023 Rule of Law Report.

¹⁶¹ Input from Croatia for the 2023 Rule of Law Report, pp. 22-23.

¹⁶² Agreement between the HRT and Croatian Government for 1 January 2023 until 31 December 2027.

¹⁶³ Information received from HRT in the context of the country visit to Croatia.

¹⁶⁴ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, pp. 20-21.

¹⁶⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 21; HRT Law, Art. 35.

¹⁶⁶ <https://o-nama.hrt.hr/pristojba/pristojba-4431>

¹⁶⁷ Information received from the Ministry of Culture and Media and HRT in the context of the country visit to Croatia; N1, License fee for state broadcaster HRT to remain unchanged at €10.60 per month, 7 December 2022,

¹⁶⁸ See Telegram, HRT's great journalist dismissed - they censored him, and wanted him to be more pro-Putin, 27 February 2023.

¹⁶⁹ 2023 Media Pluralism Monitor, p. 18. The 2023 Media Pluralism Monitor indicator on the independence of public service media shows a medium risk. HRT is managed by a Director General with a five-year term who is accountable to the Supervisory Board. Following a public call by the Supervisory Board, the Director

The general legal framework for access to information and public documents has been updated, while delays in the processing of requests from journalists remain an issue in some cases. Changes to the Right to Access Information Act entered into force in June 2022, aiming to improve and harmonise practices concerning requests for access to information¹⁷⁰. In addition, specific provisions concerning journalists are included in the Media Act. The legal framework ensures access to information in principle. However, delays in the processing of journalists' requests by public authorities remain an issue in some cases. In 2022, the Office of the Information Commissioner received 40 complaints and 43 appeals from journalists concerning access to information¹⁷¹. The 2023 Media Pluralism Monitor indicator on the protection of the right to information shows a medium risk¹⁷².

Authorities and journalists' representatives are taking steps to improve cooperation with a view to improving the safety of journalists. Since the 2022 Rule of Law Report, the Council of Europe's Platform to promote the protection of journalism and safety of journalists has registered five alerts relating to events in Croatia¹⁷³. Police authorities generally react appropriately on cases of attacks against journalists¹⁷⁴. There are reports of verbal assaults against journalists, notably when covering public protests¹⁷⁵. In this context, the Ministry of Internal Affairs, the Croatian Journalists' Association and the Croatian Journalists' Union are working on agreements to improve the cooperation between the police and journalists in the case of criminal offences against journalists as well as the interaction between police and media workers during public protests¹⁷⁶. In February 2023, the Prime Minister announced potential changes to the Criminal Code which would criminalise the disclosure of information from ongoing criminal investigations. This raised some concerns among journalists and civil society representatives fearing potentially negative repercussions for the work of journalists¹⁷⁷. In

General is appointed by simple majority by the Parliament. Four out of the five members of the Supervisory Board are equally appointed by the Parliament, with an employee representative as the fifth member. Additionally, the Programme Council (consisting of nine members appointed by Parliament and two employee representatives) represents the public interest and monitors the programming activities of HRT. The Supervisory Board reports annually to Parliament on the legality of HRT's activities and financial operation, while the Programme Council reports annually on implementation of the programme. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 21.

¹⁷⁰ Right to Access Information Act; Input from Croatia for the 2023 Rule of Law Report, p. 27.

¹⁷¹ Written contribution from the Office of the Information Commissioner in the context of the country visit to Croatia. The numbers are very similar to those for 2021 (41 complaints and 43 appeals).

¹⁷² 2023 Media Pluralism Monitor, p. 10.

¹⁷³ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Croatia. For the same period, the Mapping Media Freedom project lists 9 incidents in Croatia (Mapping Media Freedom, Croatia (as of 28 March 2022)).

¹⁷⁴ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Croatia.

¹⁷⁵ N1, Association of Journalists condemns attacks on reporter at Zagreb rally, 11 September 2022.

¹⁷⁶ These would include a Protocol on the behaviour of the police upon learning about a criminal offense committed to the detriment of media workers in connection with the performance of media activities, a Protocol on the behaviour of the police and media workers at public gatherings of greater public interest, and an Agreement on cooperation. Input from Croatia for the 2023 Rule of Law Report, p. 26.

¹⁷⁷ Information received from the Public Ombudsperson's Office in the context of the country visit to Croatia, and Safejournalists.net, Inadmissible Statements of the Prime Minister of Croatia on Changing the Criminal Code due to Information Leaks, 15 February 2023; On 14 February 2023, the Association of Journalists sent a complaint to the Ombudsperson cautioning that it considers it be inadmissible to call information published in the media a leak of information. The Association of Journalists further pointed out that the Croatian law contains provisions establishing criminal responsibility for revealing an official secret. Those provisions

February 2023, the Ombudsperson sent a letter to the Ministry of Justice and Public Administration enquiring about the scope, substance, and timeline of the envisaged amendments to the Criminal Code and the Code of Criminal Procedure¹⁷⁸; in their reactions, Croatian authorities have stressed that any potential amendments to those laws would not impact the work of journalists or the protection of journalistic sources¹⁷⁹. In parallel, the Government intends to submit to public consultation, in July 2023, draft amendments to the Law on the State Attorney's Office, which appear to enlarge the scope of classified information. Under the applicable Criminal Code, the disclosure of classified information could amount to a criminal offence, unless it is proven that the disclosure was predominantly in the public interest¹⁸⁰.

There has been some progress on addressing the strategic lawsuits against public participation (SLAPP) targeting journalists, which remain a significant concern, as the expert working group continued awareness raising efforts, notably among judicial practitioners. The 2022 Rule of Law Report recommended to Croatia to 'address the issue of strategic lawsuits against public participation targeted at journalists, including by addressing the abuse of legal provisions on defamation and encouraging awareness, taking into account European standards on the protection of journalists'¹⁸¹. As stated in the 2022 and 2021 Rule of Law Reports, this can pose a significant financial risk to journalists and have an important intimidating effect on media¹⁸². A survey by the Croatian Journalists' Association in May 2023 counted 945 active lawsuits against journalists and the media in Croatia (compared to 951 in 2022, 924 in 2021 and 905 in 2020)¹⁸³. There continue to be reports of SLAPP cases targeting journalists involving judges, particularly on claims of defamation¹⁸⁴. In May 2023, a judgment by the Constitutional Court provided clarifications with regard to the standards applicable to defamation cases, especially for cases of public interest¹⁸⁵, which could also have an impact on potential SLAPP cases concerning journalists. In addition, there are also reports of potential cases of abusive litigation targeting civil society organisations¹⁸⁶. The currently available

contain an exception for situations in which disclosure of an official secret is in the overriding public interest. For example, if evidence was collected through special investigative means, then they are an official secret and their disclosure is already a criminal offence. Information from the Association of Journalists in the context of the country visit to Croatia, and Association of Journalists, Press release CJA sends a complaint to the Ombudsman about the announcement of Prime Minister Plenković, 14 February 2023.

¹⁷⁸ Information received from the Public Ombudsperson's Office in the context of the country visit to Croatia.

¹⁷⁹ In his reply to the Ombudsperson's letter as well as public statements, the Minister of Justice stated that criminal responsibility for disclosing the content of ongoing criminal investigations could be prescribed only for the participants of the procedure (prosecutors, police, parties and their defence attorneys), not for journalists. The aim of the potential amendments would be to protect the objectives of criminal proceedings, the right to privacy and the presumption of innocence of persons subject to criminal proceeding. Additional input from Croatia for the 2023 Rule of Law Report.

¹⁸⁰ Draft amendments to the Law on the State Attorney's Office, which would amend its Article 58 and allow state attorneys to declare any written official communication within the prosecution service as classified information.

¹⁸¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 2.

¹⁸² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 22; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 19.

¹⁸³ Croatian Journalists' Association, Survey among media, 2 May 2023.

¹⁸⁴ Contribution from GONG for the 2023 Rule of Law Report. See also N1, Croatian Journalists' Association launches campaign aimed at revealing names of judges suing journalists, 21 November 2022.

¹⁸⁵ Judgment of the Constitutional Court of 4 May 2023, U-III-1880/2018.

¹⁸⁶ Information received from GONG in the context of the country visit to Croatia.

procedural rules that allow dismissing a groundless lawsuit appear not to be used by many judges, indicating a need for further training on this civil procedural tool¹⁸⁷. The Ministry of Culture and Media expert working group on the issue of SLAPPs targeting journalists, established in 2021, continued its work to raise awareness on the topic, notably among judicial practitioners¹⁸⁸. However, there have been no further recommendations, initiatives or changes to the legal framework¹⁸⁹. In line with the 2022 recommendation, further concrete measures are outstanding to address the issue of SLAPPs in Croatia. In that context, journalist representatives continue to see a need to decriminalise defamation¹⁹⁰. The Government stated it will explore possible new measures in the context of the announced revision of the Media Act¹⁹¹. Overall, some progress has been made on the implementation of the recommendation of the 2022 Rule of Law Report.

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, with A-status¹⁹², who is responsible for the promotion and protection of human rights and freedoms and fulfils the role of the National Human Rights Institution, the Information Commissioner, and the Ombudsperson for Gender Equality¹⁹³, which fulfils the role of the equality body, are all independent bodies that play a role in the system of checks and balances.

The number of public consultations increased significantly. In 2022, public consultations conducted through the central state consultations portal 'e-Consultations' and coordinated by the Government Legislation Office, increased to 1 028 consultations (up from 823 in 2021). The average length of consultation slightly decreased to 19 days (21 in 2021). Also, the number of participants and comments decreased but more observations were fully/partially accepted¹⁹⁴. The number of comments that remained unanswered increased to 22 % (7 % in 2021; 34% in 2020 and 22% in 2019).¹⁹⁵ In August 2021, a two-year project started to bring procedural and functional improvements to the e-Consultations portal, as well as its expansion to local and

¹⁸⁷ Information received from the Association of Journalists in the context of the country visit to Croatia.

¹⁸⁸ <https://min-kulture.gov.hr/strucna-radna-skupina-za-ofukadanje-politike-suzbijanja-slapp-tuzbi/22216>; Input from Croatia for the 2023 Rule of Law Report, pp. 23-24.

¹⁸⁹ Input from Croatia for the 2023 Rule of Law Report, pp. 23-24.

¹⁹⁰ Information received from the Trade Union of Croatian Journalists in the context of the country visit to Croatia; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 22. See also 2023 Media Pluralism Monitor, p. 22.

¹⁹¹ Input from Croatia for the 2023 Rule of Law Report, pp. 23-24.

¹⁹² According to the Principles relating to the Status of National Institutions (The Paris Principles).

¹⁹³ 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.

¹⁹⁴ According to provisional data taken from the e-Consultations during 2022, a total of 6 530 natural and legal persons (8 466 in 2021) submitted 22 838 comments (23 467 in 2021). Among these, about 15% were accepted (13% in 2021), and 7% partially accepted (9% in 2021). About 27 % were not accepted (28% in 2021) and 22% did not received any response (8% in 2021). However, not all reports on consultations conducted in 2022 were completed when the information was submitted. Written contribution from the Government Legislation Office in the context of the country visit to Croatia.

¹⁹⁵ Written contribution from the Information Commissioner in the context of the country visit to Croatia.

regional self-government units. The implementation of the project has been prolonged and upgrading of the system and related training are expected for the second half of 2023¹⁹⁶. In 2022, the share of laws adopted by urgent procedure in Parliament increased – more than half of all legislative procedures were urgent¹⁹⁷.

On 1 January 2023, Croatia had 26 leading judgments of the European Court of Human Rights pending implementation, an increase of one compared to the previous year¹⁹⁸. At that time, Croatia's rate of leading judgments from the past 10 years that remained pending was at 29% (compared to 25% in 2022) and the average time that the judgments had been pending implementation was 2 years and 8 months (compared to 4 years and 3 months in 2022)¹⁹⁹. The significant change in data relates to the closure of a case previously pending implementation for 15 years²⁰⁰. On 15 June 2023, the number of leading judgments pending implementation remained at 26²⁰¹.

There has been some progress on the follow-up to the People's Ombudsperson's recommendations, which has improved, while some challenges remain on access to information. The 2022 Rule of Law Report recommended to Croatia to 'ensure a more systematic follow-up to recommendations and information requests of the Ombudsperson'²⁰². The Governmental Council for Human Rights, a consultative body established in 2021, held four sessions so far, including one dedicated to the response to Ombudsperson's recommendations, which called on all state authorities to implement the recommendations²⁰³. In 2022, the Ombudsperson's Office saw an improvement in the follow-up to its recommendations as compared to the previous year's report, as around 46% of all recommendations given in the 2021 Ombudsperson's Report have either been already implemented or are in the process of being implemented²⁰⁴. However, the Governmental

¹⁹⁶ Information received from the Government's Office on Legislation in the context of the country visit to Croatia.

¹⁹⁷ In 2022, Parliament adopted 52% of laws using the urgent procedure (31% in 2021, 51% in 2020, 47% in 2019). Written contribution from Parliament Secretariat in the context of the country visit to Croatia.

¹⁹⁸ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁹⁹ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2023. See the Contribution from the European Implementation Network for the 2023 Rule of Law Report, p. 2.

²⁰⁰ Judgment of the European Court of Human Rights of 31 May 2007, *Secic v. Croatia*, 40116/02, pending since 2014.

²⁰¹ Data according to the online database of the Council of Europe (HUDOC).

²⁰² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 2.

²⁰³ Information received from the Public Ombudsperson's Office in the context of the country visit to Croatia. On 23 June 2022, the Council wrote to all State bodies with a request to submit information on the activities undertaken to implement 156 recommendations from the 2021 Ombudsperson's Report and is currently working on the analysis of the information it received. Input from Croatia for the 2023 Rule of Law Report, pp. 27-28.

²⁰⁴ Around 43% of all recommendations given in the 2020 Ombudsperson's Report and 46% of those given in the 2021 Report have either already been implemented or are in the process of being implemented. Information received from the People's Ombudsperson's Office in the context of the country visit to Croatia. As found in the 2022 Rule of Law Report, the national authorities, according to the Ombudsperson, fulfilled 26% of recommendations given in the 2018 Report and only 20% of those given in the 2019 Report. 2022 Rule of

authorities still did not respond or responded slowly to the Ombudsperson's recommendations²⁰⁵ (the 2021 Ombudsperson's Report has not yet been discussed at the plenary of Parliament)²⁰⁶. Discussions continued with the Ministry of the Interior regarding the Ombudsperson's direct access to the Ministry's information system on the treatment of irregular migrants²⁰⁷. The Law on the People's Ombudsperson stipulates that the Ombudsperson has the right to receive information and to access data and documents of national authorities in relation to the area of its competence²⁰⁸. For its part, the Government noted that direct access to the protected Ministry's information system is limited to authorised users with personalised access parameters²⁰⁹. Overall, some progress has been made on the implementation of the recommendation of the 2022 Rule of Law Report. The Ombudsperson supports, in an advisory role, Croatia's Independent Monitoring Mechanism, which since 2021 provides for independent fundamental rights monitoring of border-related operations involving migrants and asylum seekers. In November 2022, the role of the Independent Monitoring Mechanism was further extended and reinforced²¹⁰.

The preparation of the new National Plan for Creating an Enabling Environment for the Development of the Civil Society for 2023-2030 has not progressed. The previous Rule of Law Reports²¹¹ noted the preparatory steps towards adoption of the National Plan, which intended to further improve the legal, financial and institutional support system for the activities of civil society organisations. In 2022, the Government's Office for NGOs held preparatory meetings with state bodies that will be responsible for the National Plan's implementation, and the draft National Plan is being prepared to be submitted for public consultation after all the measures and activities contained therein will be coordinated with the respective implementing entities²¹². Dialogue between the Government and civil society is also

Law Report, Country Chapter on the rule of law situation in Croatia, p. 24-25. However, according to the Government, the data from the body in charge with the monitoring of the implementation of the Ombudsperson's recommendations differs. According to the analyses conducted by the Office for Human Rights and Rights of the National Minorities, almost 70% of the recommendations from the 2021 Ombudsman Report are implemented or in the process of being implemented.

²⁰⁵ No response to 50% of those given in the 2020 Report, and 60% of those given in the 2019 Report.

²⁰⁶ The 2021 Report has been discussed before one of the parliamentary committees. Information received from the Public Ombudsperson's Office in the context of the country visit to Croatia.

²⁰⁷ Information received from the Public Ombudsperson's Office in the context of the country visit to Croatia. As stated in the 2022 Rule of Law Report, the law gives the Ombudsperson access to all such types of information and officials employed in the Ombudsperson's Office have the necessary clearance for handling secret data. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Croatia, p. 24-25.

²⁰⁸ Article 9 of the Law on the People's Ombudsperson.

²⁰⁹ According to the Government, the Ministry of Interior is regularly submitting information further to the requests for access to information by the Ombudsperson or her Office, and over the past year the Ministry held numerous meetings with the Ombudsperson's Office in order to improve the cooperation and to clarify the restrictions, which must be respected by the police officers when it comes to directly accessing the protected Ministry information system which is limited to authorised users with personalized access parameters. Input from Croatia for the 2023 Rule of Law Report, p. 28.

²¹⁰ In July 2022, its first report was adopted, and in November 2022, its functioning was extended with regard to its already existing main objective of contributing to monitoring the respect of fundamental rights in the context of border management within its mandate. See Independent Monitoring Mechanism, Annual Report June 2021 – June 2022. Ministry of the Interior, Press release of 4 November 2022.

²¹¹ 2022, 2021 and 2021 Rule of Law Reports, Country Chapters on the rule of law situation in Croatia.

²¹² According to the Government, there has been a large increase in the number of employees in the CSOs. In 2021, there were more than 20 000 employees in CSOs, which is an increase of 60% in comparison to 2015.

taking place in the framework for the implementation of the Open Government Partnership initiative, coordinated by the Government's Office for NGOs²¹³. In 2023, two funding calls are envisaged for civil society organisations, under the European Social Fund²¹⁴. Stakeholders reported that more multi-annual funding calls should be published, which would bring more stability for the civil society organisations²¹⁵.

The same goes for the availability of financial resources, according to the data from the CSO register, which point to a significant increase in the income CSOs, by 57.32% in 2021 compared to 2015.

²¹³ The Council of Open Government Partnership initiative is an advisory body to the Government that was established in 2017 to promote transparency and openness in the work of public authorities, and to ensure cross-sectoral cooperation in the implementation of this initiative. Input from Croatia for the 2023 Rule of Law Report, pp. 36-37.

²¹⁴ Information received from the Government's Office for NGOs in the context of the country visit to Croatia.

²¹⁵ Information received from the Human Rights House and Centre for Democracy and Law Miko Tripalo in the context of the country visit to Croatia.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2023 Rule of Law report can be found at https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en.*

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Annex II: Country visit to Croatia

The Commission services held virtual meetings in March 2023 with:

- Agency for Electronic Media
- Association of Judges (Judge Marin Mrčela, Ph.D.)
- Bar Association
- Centre for Democracy and Law Miko Tripalo
- Centre for Peace Studies
- Commission for the Resolution of Conflicts of Interest
- Constitutional Court
- Croatian Journalists' Association
- Croatian Newspaper Publishers' Association
- GONG
- Government's Legislation Office
- Government's Office for Cooperation with NGOs
- Government's Office for Human Rights and Rights of National Minorities
- HRT – Croatian Radio and Television (General Director)
- Human Rights House
- Ministry of Culture and Media
- Ministry of Justice and Administration
- Office of the Information Commissioner
- Office of the Public Ombudsperson
- Parliamentary National Council for Monitoring Anti-Corruption Strategy Implementation
- PNUŠKOK - specialised anti-corruption police
- Secretariat of the Parliament
- State Attorney's Council
- State Attorney's Office (including USKOK-specialised anti-corruption prosecution)
- State Audit Office
- State Commission for Supervision of Public Procurement Procedures
- State Judicial Council
- Supreme Court
- Trade Union of Croatian Journalists

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

- ALDA (European Association for Local Democracy)
- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Culture Action Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Front Line Defenders
- ILGA Europe
- International Commission of Jurists
- International Federation for Human Rights (FIDH)

- International Planned Parenthood Federation European Network
- International Press Institute
- JEF Europe
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- SOLIDAR
- Transparency International EU

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