

CROATIA

By Gong

Summary:

*Since the beginning of the pandemic, Croatian CSOs have witnessed various restrictions on civic rights and freedoms following the introduction of measures to combat the spread of Covid-19. This sparked a call, among civil society, for decisive action to preserve democratic institutions and processes. Despite the fact that, in December 2021, the Constitutional Court ruled that anti-Covid-19 measures (such as the introduction of Covid-19 certificates) are not unconstitutional, some doubts over their legitimacy remained. This overall concern about the **misuse of Covid-19 regulations** goes along with a **lack of public discussion on the rule of law report** and a lack of implementation of the recommendations in Croatia. The Prime Minister Andrej Plenković and the ruling party have often challenged the report's conclusions, relativising them.*

***Civil society** in Croatia is characterized by **weak capacities** in the context of fragile democracy and rule of law infrastructure. According to the CSO sustainability Index, Croatia is only second to Hungary when it comes to sustainability of the sector. Most CSOs struggle to have a stable income in order to secure their organizational capacity and, in particular, their ability to maintain permanent paid staff (USAID, 2020). The **lack of policies** to develop and strengthen the sector as well as **administrative burdens** and **lengthy processes to access EU and national funding** are among the main reasons for this. Additionally, participation of NGOs in the decision-making processes has been weakened by changes in the institutions, including the changes to the functioning and representation in Council for Civil Society Development in 2020. Civil society working conditions has further deteriorated in the past year, due to the combination of preexisting issues and additional challenges emerged in relation to the spread of Covid-19 pandemic*

*Over the last year, there have been many episodes of **attacks and belittling of CSOs by highest public officials** in Croatia, amplified by media close to them. NGOs which promote human rights, rule of law and EU values were especially targeted and depicted as “foreign mercenaries”, or other defamatory expressions.*

[Institutional landscape and safe space \(including state duty to protect and right to freedom from fear\)](#)

[Covid-19 measures](#)

Since the beginning of the pandemic, Croatian CSOs have witnessed various restrictions on rights and freedoms following the introduction of measures to combat the spread of Covid-19. This sparked a call, among civil society, for decisive action to preserve democratic institutions and processes. Gong has advocated that all

restrictions on human rights and civic liberties should be passed by a two-thirds majority in parliament. Also, Gong has advocated that emergency measures must be overseen by an *ad hoc* body composed of MP's and civil society representatives.¹

In December 2021, the Constitutional Court ruled that anti-Covid-19 measures are not unconstitutional.² However, in February 2021, three constitutional judges (Selanec, Abramović and Kušen) already warned that all decisions related to lawsuits regarding Covid-19 made by the Constitutional Court are assigned exclusively to one rapporteur judge, despite the rule on random distribution of cases.³

Lack of public discussion on the European Commission's rule of law report

This overall concern about the misuse of Covid-19 regulations goes along with a lack of discussion on the rule of law report, both at the public and expert level, and a lack of implementation of the recommendations for Croatia. The Prime Minister Andrej Plenković and the ruling party have often challenged the report's conclusions, relativising them.

In October 2020, when commenting the most recent rule of law report, Plenković

presented some inaccurate data,⁴ in order to divert the public attention from the 20-page report on Croatia which depicted the state of the rule of law in the country in a rather critical light; back then, Croatia was considered by the European Commission's report as *"one of the most problematic members of the European Union"*, following the recommendations the Group of States against Corruption of the Council of Europe (GRECO). The GRECO published a report⁵ in March 2020 that, according to Croatian media, *"was hidden by the government for a hundred days"*, while the country was dealing with Covid-19 and the strict isolation measures.⁶

Also the rule of law report published by the European Commission in July 2021 was deemed by Croatian media and civil society as *"a disastrous report"* that threw Croatia *"to the bottom of the EU"*, while *"the entire Croatian government has kept silent"* about it.⁷⁻⁸

Smear campaigns against civil society organisations and critical voices

In 2021, there have been many episodes of attacks and belittling of CSOs from the highest public officials in Croatia amplified by media close to them. NGOs which promote human rights and rule of law, EU

¹ <https://gong.hr/2020/03/28/zahtjevi-za-ocuvanje-demokracije-u-vrijeme-koronav/>

² <https://hr.n1info.com/vijesti/ceka-se-odluka-ustavnog-suda-o-covid-potvrdama/>

³ <https://www.vecernji.hr/vijesti/troje-sudaca-u-izvojenim-misljenjima-pita-zasto-je-isti-sudac-izvjestitelj-u-svim-covid-predmetima-te-zasto-se-od-stozera-ne-trazi-jasno-ocitovanje-1469378>

⁴ <https://faktograf.hr/2020/10/02/plenkovic-relativizira-kritike-koje-je-hrvatska-dobila-u-izvjestaju-ek-o-vladavini-prava/>

⁵ <https://rm.coe.int/fifth-round-evaluation-report-on-croatia-preventing-corruption-and-pro/16809cff22>

⁶ <https://www.telegram.hr/politika-kriminal/zasto-je-porazavaju-izvjesce-ek-o-hrvatskom-pravosu-od-direktna-kritika-premijeru-plenkovicu/>

⁷ <https://www.jutarnji.hr/vijesti/hrvatska/kako-je-cijela-hrvatska-vlada-presutjela-godisnje-izvjesce-o-vladavini-prava-15089794>

⁸ <https://www.slobodnaevropa.org/a/hrvatska-izvjestaj-vladavina-prava/31370462.html>

values, were especially targeted and depicted as “foreign mercenaries”, or other defamatory expressions.

These episodes, during the last year, included:

- During a press conference at the end of February 2021, Prime Minister Plenković accused HND (Croatian Journalists’ Association) and Gong of “hypocrisy”;⁹
- Plenković has also repeatedly portrayed Gong as a threat to society, often calling the people working in the NGO “professional accusers”, saying that they are “suing” and dealing with Plenković’s political rivals, and accusing the organisation of turning into a political party;¹⁰⁻¹¹
- At the end of May 2021, the Homeland Movement (a nationalist and right-wing populist political party) inaccurately presented CSOs financial reports - available on the Internet - as evidence of “criminal acts”. In doing so, they incorrectly added up and misread the data from the register of the Ministry of Finance on civil society funding;¹²

- In the same period, after his conservative political party HDZ won local elections across the country, Prime Minister Plenković openly attacked the media and one academic member of the Faculty of Political Science in Zagreb calling them “*mercenaries who slandered HDZ candidates.*”;¹³⁻¹⁴
- In December 2021, in response to an open letter from 18 NGOs calling him out for “*switching to the dark side*” of politicians such as Viktor Orbán, Franjo Tudjman, Tomislav Merčep, Milorad Dodik and Ratko Mladic, the President of the Republic of Croatia Zoran Milanović defined people from NGOs “*disturbed*”;¹⁵
- Still in January 2022, Prime Minister Plenković accused his critics of trying to “*dismantle the state*”. Although he does not explicitly mentioned them, analysts believed that Plenković by “critics” meant the media, intellectuals and public analysts, as well as non-governmental organisations.¹⁶

⁹ <https://www.tportal.hr/vijesti/clanak/uzivo-plenkovic-o-sastanku-europskog-vijeca-bili-smo-unisoni-da-distribucija-cjepiva-mora-biti-brza-20210226>

¹⁰ <https://gong.hr/2021/02/26/aktivistkinje-nisu-izdajice-plenkovicu/>

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<https://www.facebook.com/watch/?v=455104225707109>

¹² <https://faktograf.hr/2021/05/28/domovinski-pokret-financiranje-civilno-drustvo/>

¹³ <https://www.index.hr/vijesti/clanak/hnd-plenkovic-otvoreno-prijeti-novinarima-i-medijima-koji-nisu-na-hdzovoj-liniji/2280195.aspx>

¹⁴ <https://www.index.hr/vijesti/clanak/plenkovic-divljao-pred-kamerama-namjerno-krivo-zovete-filipovica-i-imate-placenike/2280076.aspx>

¹⁵ <https://hr.n1info.com/vijesti/nova-runda-previranja-izmedu-pantovcaka-i-banskih-dvora/>

¹⁶ <https://www.index.hr/vijesti/clanak/plenkovic-se-ponasa-kao-teoreticar-zavjere/2333061.aspx>

The regulatory environment for and implementation of civic freedoms

Lack of political will and policies to develop the capacities of the sector and protect civic space

In Croatia, working conditions for civil society have further deteriorated in the past year, due to the combination of preexisting issues and additional challenges emerged in relation to the spread of Covid-19 pandemic. There have been no public initiatives or policies adopted to strengthen CSOs development.

The *National Strategy for the Creation of an Enabling Environment for Civil Society Development* expired in 2016. Since then, the development of a new strategy has started, but it has not yet been drafted or adopted, despite the repeated announcements by the Government Office for Cooperation with NGOs that the *Strategy* would have been ready by 2020.

In addition, also the *National Program for Protection and Promotion of Human Rights* - which contains a set of important measures for the support of civil society organisations defending and promoting human rights - expired in 2016 and has not been renewed for five years in a row.

¹⁷ Gong, *Analysis of the administrative burden of users during the implementation of EU projects - The experience of CSOs*

The framework for civic organisations' financial viability and sustainability

Administrative burdens and lengthy processes put in danger the financial viability of the sector

The funding for civil society organizations from the European Social Fund has brought new challenges and difficulties for CSOs, resulting in their repeated complaints about poor governance and excessive administrative burdens.¹⁷

The CSOs expressed special concern to the Ministry of Labor regarding the information on renegotiation within the Operational Program Effective Human Resources 2014-2020, which exceeded the allocation by as much as 2 billion HRK and, accordingly, led to no further calls for CSOs within the Program for this year.

A coalition of CSOs sent an appeal to the Ministry of Regional Development and EU funds to call for funds and transparent procedures and standards for CSOs in the next European Social Fund Plus (ESF+) period 2021-2027.

The findings of a 2020 research on access to funding for civil society organisations showed that the application process for associations' projects is often too demanding in administrative terms. The findings also pointed to the overly lengthy evaluation of projects within the European

<https://gong.hr/2021/12/31/analiza-administrativne-opterecenosti-korisnika-prilikom-provedbe-eu-projekata-iskustvo-udruga/>

structural and investment funds (ESIF) calls for proposals. In the case of projects financed by the state budget, associations considered the evaluation process to be non-transparent. Due to the frequently lengthy evaluation process for reports and requests for reimbursement of project costs by the ESIF, many associations encountered liquidity problems. Thus, these delays pose a significant danger to the operations of CSOs. Inconsistencies in recognising problems in local communities also had a negative impact on the achievement of adequate funding for civil society organizations' programs. The non-participatory public policy-making process means that certain societal problems remain unrecognised by domestic donors and are not included in existing funding programs, forcing associations to seek alternative funding ways in order to remain active in such areas. Short-term forms of financing for CSOs projects negatively affect the work of organisations engaged in long-term advocacy and watchdog activities.^{18,19}

The right to participation and dialogue between the civic sector and governing bodies

Lack of functioning of civil dialogue mechanisms and participation in decision-making obstruct the development of strategic documents

¹⁸ Human Rights House Zagreb, Human Rights in Croatia: Overview of 2020, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2021/06/KLJP_GI2020_EN_PRIP_w eb.pdf

According to CSOs representatives in Croatia, the overall quality of civic participation in processes of legislation and policy development is not adequate. Online public consultations are available through the platform *e-savjetovanja*, but the quality of participation is hampered by the fact that citizens' and CSOs' inputs and recommendations are often not genuinely welcome and taken into consideration by public authorities. There is also a negative trend of shortening the consultation period without adequate justification, which has all but become the rule rather than an exception. Additionally, the quality of report drafting on the conducted consultations is deficient, and all received proposals and opinions are insufficiently documented, especially at the local level.

CSOs members of the Council for Civil Society Development also warned of the lack of systematic and transparent governance of this body, emphasising the fact that the *Strategy for the Development of Civil Society* has not been established yet. In the last year, there has been an overall reduction of the democratic standards: amendments to the Rules of Proceedings for the Council have not been adopted yet, since May 2020; besides, representative of CSOs have been appointed too late to different governmental working groups due to administrative delays.

For example, the working groups for planning the priorities of the EU Multiannual Financial Framework 2021-2027 saw delays

¹⁹ Joint NGO Submission on behalf of the Coalition of Croatian human rights NGOs in relation to Croatia's 3rd UN Universal Periodic Review, JS4 - Joint Submission 4, October 2019, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRHRStakeholdersInfoS36.aspx>

in appointing new members to the Council. Participation of CSOs in working groups for the ESF+ was *pro forma*, since Ministry of Regional Development and EU Funds organised a highly centralised system. Additionally, after the elections in May 2020, the government officials were appointed to the Council for Civil Society Development only on 11 February 2021, leaving the Council as basically a non-functional body amidst Covid-19 crisis, earthquakes relief and its mission during the period of 8 months. In December 2021, a public call²⁰ was open for appointing CSOs representatives for the newly set Human Rights Council. This Council plans to operate as an interdepartmental and advisory body of the government to assist its efforts to more constructively and effectively identify and respond to human rights challenges, both nationally and globally. CSOs representatives in this body are a hefty minority (3 CSOs representatives vis a vis 15 government officials, while, in comparison, in the Council for Civil Society Development there are 14 associations representatives, 3 other types of CSOs representatives, 3 local and regional municipalities representatives and 17 government officials).

Recommendations

Croatian government should:

- Adopt key policies to develop the capacities of the sector and protect civic space, the National Strategy for the Creation of an Enabling Environment for Civil Society Development and National Program for Protection and Promotion of Human Rights – in a participatory process engaging civil society;
- Make the process of programming, publishing and conducting tenders and evaluating project proposals as transparent as possible;
- Simplify calls for funding to the minimum necessary to ensure that the process and implementation of projects run smoothly and that funds are spent justifiably and purposefully;
- Improve institutional capacities to avoid breaches of contractual obligations towards beneficiaries in implementation of ESF projects;
- Engage in open dialogue with NGOs regarding public policies, bearing in mind that civil society organizations are partners in terms of achieving societal goals;
- Enable participatory models in bringing public policies that reflect transparency, human rights respect and European values;
- Introduce civic education in national schools' curricula in order to sustain informed and active citizenship.

²⁰ <https://udruge.gov.hr/vijesti/poziv-za-predlaganje-predstavnika-organizacija-civilnoga-drustva-za-clanove-savjeta-za-ljudska-prava/5433>