



**Monitoring Implementation of the Council of Europe Recommendation to the
member states on measures to
combat discrimination on grounds
of sexual orientation or gender identity CM/Rec(2010)5**

**DOCUMENTATION REPORT ON
THE REPUBLIC
OF
CROATIA
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INTRODUCTION

About Zagreb Pride

Zagreb Pride is a non-profit, queer-feminist and anti-fascist organization which is committed to the achievement of an active society of solidarity and equality free from gender and sexual norms and categories, and any other kind of oppression. Through our principle areas of work, a) advocacy, b) research, c) education, d) empowerment and e) direct action, since 2002 Zagreb Pride struggles for rights of LGBTIQ persons and communities, non-normative families and society as a whole and works on the elimination of all forms of discrimination, based on the full promotion, respect and protection of human rights.

About the Report

This report serves to highlight the overall situation of LGBTQ persons in Croatia. It covers all of the 12 areas listed in the Appendix¹, with recommendations for improvement pertaining to each area. In particular, we decided to put specific focus on two fundamental issues where the most efforts are needed: Right to life, security and protection from violence and Right to respect for private and family life.

This is the second time that the LGBTIQ organizations from Croatia are submitting a report on the Implementation of the Recommendation and its Appendix to the Council of Europe. The first report was prepared by LGBT organizations Iskorak and Kontra in 2012². Since their report, legal gender recognition has partially been ensured and the rights of same-sex couples have been improved.

The implementation of the Recommendation in Croatia remains partial, inconsistent and in several areas such as housing, education, health and sports, not implemented at all. Even though the Recommendation has been translated into Croatian language and published on the website of the Governmental Office for Gender Equality in 2012, it was not promoted in any effective way and there is no general awareness of its existence.

With this report Zagreb Pride intends to raise awareness about attempts to limit the rights of LGBTIQ persons in Croatia in recent years and to ensure strong evidence-based advocacy tool in order to achieve legal and social change.

Political System and Demographics

The Republic of Croatia (In Croatian: *Republika Hrvatska*) is a unitary parliamentary constitutional republic located between Central Europe and South-Eastern Europe. Croatia declared independence from the Socialist Federative Republic of Yugoslavia in 1991, became a member of the United Nations in 1992, joined the Council of Europe in 1996 and since July 1, 2013 has been the newest member-state of the European Union.

¹ 1. Right to life, security and protection from violence; 2. Freedom of association; 3. Freedom of expression and peaceful assembly; 4. Right to respect for private and family life; 5. Employment; 6. Education; 7. Health; 8. Housing; 9. Sports; 10. Right to seek asylum; 11. National Human Rights Structures; 12. Discrimination on multiple grounds

² Monitoring Implementation of the Council of Europe Recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity: „Documentation Report Croatia 12/2011“ by Iskorak and Kontra: https://www.ilga-europe.org/sites/default/files/Attachments/croatia_-_monitoring_implementation_of_the_coe_recommendation.pdf

The highest values of the constitutional order of the Republic of Croatia (Article 3) are *freedom, equal rights, national and gender equality, peace-making, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law and a democratic multiparty system*. Human rights and fundamental freedoms are protected by the Constitution of the Republic of Croatia (Chapter three, Articles 14 – 70) and all forms of discrimination based on sexual orientation, gender identity, and gender expression are prohibited by the Anti-Discrimination Act.

According to the 2011 National Census, it had 4,309,899 inhabitants, however, due to the emigration of its citizens to other EU countries, the population dropped to 4,154,200 according to the Eurostat report from 2017. Croatia is a constitutionally secular country; however, a large majority of the Croatian population declared to be members of the Roman Catholic Church (86%), comparing to 4.47% of the population who claim to be non-believers, atheists, skeptics and/or agnostic. Other major religious groups larger than 1% are Christian Orthodox – mostly members of the Serbian Orthodox Church (4.44%) and Muslims – mostly members of the Islamic Community in Croatia (1.47%). Croatia is ethnically homogenous society; about 90% of its inhabitants are declared as Croats by ethnicity. The only other ethnicity that surpasses 1% of the population are Serbs at 4.5%, whose population significantly decreased from 12.2% of Serbs living in Croatia before the 1991 – 1995 civil war.

Since 1990, Croatia has re-introduced a multi-party-political system of governance, however, only two political parties have been given an opportunity to form a government (in most cases in a coalition with other minor parties) - the center-left Social Democratic Party (SDP) and the center-right to right-wing Croatian Democratic Union (HDZ).

Executive Summary

While Croatia has achieved somewhat satisfactory legal framework of protection against the discrimination based on sexual orientation, gender identity and gender expression, as well as regulation of same-sex life partnerships, the implementation of laws, judicial practice and capacities of the different public actors and law enforcements bodies are troubling in many aspects.

All forms of discrimination based on sexual orientation, gender identity, and gender expression is prohibited. However, intersex persons are not protected from discrimination and sex characteristics are not mentioned or recognized in any existing legislation or public policy. A significant setback to the rights of LGBTIQ persons occurred in 2013, when the Croatian Constitution was amended through a national referendum defining a marriage as a union of a man and a woman. Since then, the negative political and social attitudes towards LGBTIQ persons became a growing concern. Similar to the situation in the rest of the Central and Eastern Europe, in recent years Croatia is facing a strong backlash against the rights and freedoms of women and LGBTIQ persons, which is initiated by organizations closely affiliated with the Catholic Church, with the strong support of religious authorities and some parliamentary political parties. All this contributed to the increase of hate speech and, consequently, hate crimes.

In addition to anti-discrimination legislation, three national policies on human rights and gender equality exist, however, only two were implemented from 2013 to 2017: the National Gender Equality Policy and the National Plan for the Protection and Promotion of Human Rights. These policies contained a total of only nine measures directly related to LGBTIQ persons which are

not nearly sufficient for significant progress in reducing the violence and discrimination or for increasing the acceptance of LGBTIQ persons in Croatian society. What is particularly alarming is the fact that the adoption of the national policies, programs and plans for the future period were postponed for over a year due to the opposition of some government ministers to protect the LGBTIQ rights.

While hate crimes legislation has been significantly improved, the implementation of hate crime provisions has been inconsistent and majority of the hate crime reports are still inadequately processed by the police. The most unjust consequence of the incorrect qualification of acts of hate crime as a misdemeanor by the police is the fact that the misdemeanor procedure prevents the initiation of criminal proceedings (principle *ne bis in idem*). This practice and LGBTIQ persons' distrust in the police conduct contribute to the already extremely high underreporting rate of 92%. Hence, there is an evident need to invest more significant efforts to improve protection of LGBTIQ persons from violence.

Hate speech is a growing concern for all minority groups in Croatia, particularly LGBTIQ persons since the 2013 referendum on the prohibition of the same-sex marriage. The Croatian Government has provided a limited response in raising public awareness on the hate speech against LGBTIQ persons; the judiciary practice has been inconsistent and inadequate; while most of the anti-LGBTQ hate speech reports to the police or state prosecutors were rejected with completely unfounded explanations. Dangerous precedents were made for the future absence of application of existing criminal provisions as well as for the tolerance of hate speech, especially hate speech on social media, which is another increasing problem in the Croatian society.

Croatia has a growing number of LGBTIQ organizations in recent years and they work freely to promote the rights of LGBTIQ persons. However, since 2016 restrictions were made in regards the access to public funding and growing negative attitudes towards the LGBTIQ organizations as well as women's rights organizations has been promoted by the politicians and organizations who work closely to the Catholic Church. Therefore, LGBTIQ organizations mostly rely on EU-grants which significantly affects their work in terms of capacities for processing projects administratively.

Limitations to freedom of expression and freedom of assembling are another great concern. LGBTIQ organizations, LGBTIQ media and human rights defenders in Croatia have been put under high magnitude of intimidation and threats with lawsuits, filing lawsuits and judgments requiring payment of high amounts for damages and litigation costs as well as initiation of criminal proceedings against certain journalists and activists, and other legal actions. All this points to a completely new methods of pressure on the work of defenders of human rights as well as non-profit media that are expressing criticism about the state authorities or the Catholic Church.

Some legal gender recognition procedures exist since 2015 but are not accessible in quick and transparent manner and are not based on self-determination. Existing legislation does not guarantee full legal gender recognition of a person in all areas of life as it only applies only to adapting birth certificate, personal ID and passport, but not to education and work-related documents or documents issued by non-state bodies. Trans people continue to experience systematic discrimination and non-recognition of their identity in most aspects of their lives. A more comprehensive legal gender recognition legislation is highly needed, however, no political will from the Government has been expressed.

Same-sex couples have been protected with large set of rights and privileges equal to marriage, besides the adoption, through the Life Partnership Act, which provides a way to regulate the family relationships of persons of the same sex, including so called *rainbow families*. Same-sex partners cannot legally adopt, however institute of the partner-guardianship with equal rights and obligations to second parent adoption exist. Nevertheless, same-sex couples and their children continue to face discriminatory judiciary practice and Croatian Government continues to exclude life partners from new policies and law-proposals which creates a systematic institutional discrimination of life partners, informal life partners and children under partner-guardianship.

Even though discrimination in employment is prohibited based on sexual orientation, gender identity and gender expression, LGBT persons continue to hide their identity from employers and colleagues in order to protect themselves from discrimination and harassment. Discriminatory practice against LGBT people at workplaces exist and a handful of legal cases have been initiated before the courts. However, this showed no deterrent effect on employers and the public at large. LGBTIQ organizations have only recently taken a more systematic approach to ensure better work conditions for LGBTIQ workers and protection against discrimination in the workplace.

About half of high school graduates in Croatia believe that homosexuality is some form of disease. School bullying of LGBTQ students is widely present and not sanctioned. School staff and teachers lack capacities and knowledge to teach students on sexual orientation, gender identity, and gender expression or to tackle LGBTIQ-related school bullying. Therefore, schools remain an unsafe and unfriendly environment for LGBTIQ students but also for LGBTIQ teachers. The Croatian Government completely failed to implement measures aimed at reducing homophobia, biphobia and transphobia through the education system so the basic knowledge and attitudes about LGBTIQ persons are primarily formed through religious instruction. The health/sex education introduced in 2014 has additionally worsened the situation by offering misleading, outdated and unscientific information on LGBT people in the handbooks for teachers.

Many areas of life mentioned in the Recommendations have not been addressed by any measure at all. This includes health, housing and sport. The public health care programs do not mention LGBTIQ persons, except for context of HIV/AIDS prevention. Even teen suicide prevention program does not mention LGBTIQ youth. Specific needs pertaining to health care for trans people are completely unregulated and some gender reassignment procedures are not even available in Croatia. Public housing is generally limited in Croatia to all, but specific vulnerable groups of LGBTIQ persons are not a priority demographic for public housing. Housing is generally an unregulated area and discrimination of LGBTIQ persons, particularly same-sex couples on the housing market is evident. Only a small number of LGBTIQ persons have considered legal actions against homeowners who have discriminated them or refused to lease the apartment based on their sexual orientation or family status, while majority of LGBTIQ persons decide to keep their relationships and/or sexual orientation and gender identity a secret. Sports remain unfavorable surrounding for LGBTIQ persons and it is obvious that important changes in sports policies are needed. Particularly unsafe and even hostile environment are the sporting events, especially football/soccer games which are often accompanied with unsanctioned homophobic and racist hate speech.

Only 481 persons have been granted international protection so far, while there are currently 1887 more refugees who have officially requested an international protection in Croatia. There are no available records on how many asylums have been granted based on the applicant's

sexual orientation and/or gender identity nor about specific needs of LGBTIQ asylum seekers and refugees including their access to trans specific health services or their general safety. Additional trainings on the needs and specific experiences of LGBTIQ refugees are needed for the police. Another concerning issue is that in 2016, the Ministry of Interior included 3 countries which criminalize same-sex activities on the “list of safe countries of origin”.

National Human Rights Structures (NHRS) exist and the Ombudsperson for Gender Equality is mandated to address discrimination on grounds of sexual orientation and gender identity. LGBTIQ organizations work closely with the Ombudsperson for Gender Equality on legal cases by assisting and counselling victims of discrimination. The Ombudspersons are the special commissioners of Croatian Parliament and should act as independent bodies. However, since 2015 the political pressure and intimidation has been made against them which has irrevocably undermined their independence and integrity.

Discrimination on multiple grounds is recognized as a more serious form of discrimination under the Anti-Discrimination Act. However, neither existing, nor planned national policies, programs or actions on human rights or gender equality do not address any specific vulnerable group affected by the multiple discrimination that also includes sexual orientation, gender identity, and gender expression as one of the grounds. Therefore, discrimination, violence and social exclusion of LGBTIQ sex workers, LGBTIQ people of color, LGBTIQ-refugees, LGBTIQ-asylum seekers and people living under international protection, LGBTIQ persons with disabilities, LGBTIQ-ethnic minorities, including LGBTIQ-Roma people and LGBTIQ women has not been addressed by any measure proposed by the Croatian Government.

In conclusion, different forms of violence and discrimination are still experienced on a daily basis by LGBTIQ persons in Croatia. Combating hate crimes and hate speech in particular remains a major challenge for LGBTIQ persons and this should be addressed as the top priority to the Croatian Government along with the introduction of the legislation for full legal gender recognition of a person in all areas of life. Lastly, the more significant and effective improvement of human rights of LGBTIQ persons is needed in all areas addressed by this report and Croatian Government should take serious efforts by continuing to develop legal framework, promoting LGBTIQ rights in country and internationally, combating movements threatening LGBTIQ and women’s reproductive rights and introducing effective measures in national human rights and gender equality policies that would address all the areas of life of LGBTIQ persons, including discrimination on multiple grounds.

Methodology

The methodology for this report is based upon the methodology from the 2012 report and on the recommendations and guidance from ILGA-Europe and TGEU.

The assessment of the implementation of the Recommendations is based on the policy analysis, available research data, public opinion polls, police statistics, relevant academic papers, annual reports of the National Human Rights Structures, annual reports of the relevant human rights organizations and the information from other published sources, including the media articles. In addition, we have interviewed activists from organizations working on the protection of human rights of LGBTIQ persons in order to include their perspective on the implementation of existing legislation. We have also sent nine letters to government ministries

and agencies with specific questions related to different areas relevant to their mandate³, forty-seven letters to public and private universities and colleges with questions regarding the gender recognition for trans students⁴ and five letters to other LGBTIQ civil society organizations on different case studies. We have also used Zagreb Pride's own case studies since we provide legal representation and legal counseling to LGBTIQ persons since 2010. All these sources are listed in footnotes under the text, while case studies are highlighted with pink text background.

The report is structured according to the Questionnaire on the implementation of Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity which the Steering Committee for Human Rights (CDDH) of the Council of Europe has submitted to the national governments. It consists of 2 Sections. The Section 2 - Implementation of the specific provisions in the Appendix is divided into 12 chapters from Chapter 1 - Right to life, security and protection from violence to Chapter 12 - Discrimination on multiple grounds. At the end of each Chapter, recommendations for policymakers and/or human rights advocates are listed in order to advance the legislation or the implementation of the existing legislation.

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Many thanks to everyone who has contributed in providing data, comments, recommendations and other information relevant to this report – all the lawyers, researchers, experts, public officials, social workers, LGBTIQ people and individual activists who participated in interviews and provided us with valuable insights.

We would especially like to thank our local partners, the non-profit organizations in Croatia with whom we have been working for years on protecting and advancing LGBTIQ rights - Lesbian organization Rijeka – Lori, Trans Aid, Iskorak, Common Zone, Center for Peace Studies and Center for Education, Counseling and Research (CESI) – let's continue this great journey together and let's never surrender!

Lastly, we would like to thank LGBTIQ community in Croatia who have supported our work through these difficult times. We hope that this report will give you more information about what we have achieved so far and which challenges still lie ahead of us.

³ All the ministries and agencies responded in a timely manner, except the Central State Office for Sport, which never responded to questions pertaining to sports.

⁴ Only 3 universities and 2 colleges have responded.

RECOMMENDATIONS

Recommendations for improving the general anti-discrimination framework, including discrimination on multiple grounds and NHRS

1. Recognize “intersex characteristics” as a ground for prohibition of discrimination through amendments and supplements to the Anti-Discrimination Act.
2. Increase the number of measures that apply specifically to LGBTIQ persons in all national policies relating to the protection of human rights and gender equality and to make all other measures applicable to LGBTIQ persons.
3. Include measures to national human rights and/or gender equality policies that would tackle discrimination on multiple grounds, especially the violence and social exclusion of LGBTIQ sex workers, LGBTIQ people of color, LGBTIQ-refugees, LGBTIQ-asylum seekers and people living under international protection, LGBTIQ persons with disabilities, LGBTIQ-ethnic minorities, including LGBTIQ-Roma people and LGBTIQ women
4. For all national policies pertaining to human rights and gender equality, plan and develop relevant financial and action plans that contain clear and timeline indicators to measure the performance of the measures. Clearly determine the responsibility of the bodies for the implementation of national policy measures, together with sanctions for their non-implementation.
5. Strengthen cooperation between ministries, government offices and agencies with civil society organizations that have experience of working with LGBTIQ persons in planning and implementing national policy measures.
6. Oblige the Government of the Republic of Croatia to adopt, without delay and within a clearly defined period, national policies relating to human rights and gender/sex equality, in such a way that the adoption of the state budget depends on the adoption of such policies.
7. When adopting laws and other regulations, consistently use the correct terminology related to sexual orientation, gender identity, gender expression and intersex characteristics, as well as LGBTIQ persons in general, including official translations of all EU regulations into Croatian language, translations of international documents, as well as translation of Croatian documents into English. Such terminology should be based on “Gender Equality Glossary According to the Standards of the European Union” (In Croatian: *“Pojmovnik rodne terminologije prema standardima Europske unije”*, Croatian Government - Office for Gender Equality, Zagreb, 2007)
8. For the leaders of political parties represented in the Parliament to stop with the practice of intimidating and undermining the independence and integrity of the National Human Rights Structures.

Recommendations for improving the protection of LGBTIQ persons from hate crimes

1. Undertake additional efforts during the investigative procedure and continue with the education of police officers working on such cases as well as increase the education about hate crimes in the basic training programs for police officers.
2. Recognize and include gender expression and sex characteristics in hate crime definition (Article 87, Paragraph 20 of the Criminal Code).
3. Determine clear criteria for examining the existence of homophobic and transphobic motives when deciding on how to process a physical assault, through amendments to the Protocol for Procedure in Cases of Hate Crimes or the adoption of a special regulation.

4. Consistently implement the Directive of the European Parliament and of the Council on the establishment of minimum standards for the rights, support and protection of victims of crime (2012/29/EU). It is especially important to ensure that victims of hate crime give testimony without the presence of a perpetrator of the criminal offence, to use the available methods to prevent the victim from being forced to repeat the testimony throughout the process or to be exposed to secondary victimization, and to approach the victim in a supportive manner, taking into account the sensitivity of their situation.
5. Continue with the good practice of the municipal State Attorney's Offices of notifying misdemeanor courts about filing criminal reports with a request for misdemeanor proceedings to be suspended.
6. Misdemeanor courts should be declared incompetent for conducting proceedings if it turns out that the report for misdemeanor for a violation of public order and peace has elements of a hate crime, such as a criminal offence of violent behavior (Article 323a, Criminal Code) or criminal offence of a bodily injury (Article 117, Criminal Code).
7. The statistical analysis of hate crimes should be made publicly available and processed in such a way as to clearly show each basis for committing a hate crime as well as the place, sex, and age of the perpetrator. The statistics should also include cases where criminal persecution was suspended and disciplinary measure was prescribed for juvenile perpetrators.
8. Make victims exempt from court fees when they initiate civil proceedings related to compensation for damages and the establishment of discrimination by perpetrators of hate crime in order to provide additional deterring effect to potential perpetrators, and in order for the victim of hate crime to be awarded compensation as well as effective legal remedies and restore confidence in the legal system.

Recommendations for advancement of protection of LGBTIQ persons from hate speech

1. Consistently enforce existing legal provisions for combating hate speech: a criminal offense of public incitement to violence and hatred (Criminal Code, Article 325), and a misdemeanor of discrimination by creating a hostile, degrading or offensive environment (Anti-Discrimination Act, Article 25). Establish the criteria for hate speech pertaining to the criminal offense of public incitement to violence and hatred and the criteria pertaining to misdemeanor of discrimination by creating a hostile, degrading or offensive environment, either through the practice or special policies, e.g. the Ministry's instructions.
2. Avoid filing reports for misdemeanor for disturbing public order and peace for all forms of hate speech, especially if there is an anti-discrimination ground recognized by the Criminal Code or the Anti-Discrimination Act.
3. Ensure continuous statistical monitoring of hate speech procedures (criminal offenses of public incitement to violence and hatred, Criminal Code, Article 325, and misdemeanor of discrimination by creating a hostile, degrading and offensive environment, Anti-Discrimination Act, Article 25 and others) through existing or special Working Group at the Governmental Office for Human Rights and Rights of National Minorities. When compiling statistics, in addition to State Attorney's Office, police and misdemeanor courts, include civil society organizations involved in combating of hate speech and strategic litigation. Hate speech statistics must include all recognized grounds for discrimination, including sexual orientation, gender identity, gender expression, and sex characteristics. Such statistics should be made publicly available.
4. In order to achieve deterrent effects, avoid the imposition of symbolic or reduced penalties, especially when it comes to anti-discrimination procedures, which do not entail the consequence of being entered in the criminal records.

5. Encourage media publishers to take appropriate steps to prevent and sanction hate speech on the social networks they manage.
6. Encourage cooperation between civil society organizations, in particular LGBTIQ organizations and organizations that bring together Roma and Serb communities in the Republic of Croatia, to exchange experience in combating hate speech with the aim of strengthening common capacity for developing judicial practice in prosecution of criminal offenses of public incitement to violence and hatred as well as other forms of strategic litigation.

Recommendations for advancing the right to association of LGBTIQ persons

1. To introduce special legal measures to protect human rights defenders and recognize them as possible victims of targeted violence.
2. Civil society organizations should more frequently exchange experiences regarding founding and management of organizations in order to adopt good practices.
3. Local government bodies, private and public foundations and civil society organizations, and in particular existing LGBTIQ associations and initiatives, should strengthen and support LGBTIQ persons living outside of Zagreb, Rijeka and Split to associate for the purpose of public political, cultural and social activities in their communities, including the exercise of the right to public assembly and/or organizing Pride Marches in the cities and places where they have not yet been organized.
4. Eliminate all forms of financial and political pressures on the non-profit and non-governmental sector through the creation of conditions for accessible and stable funding through the share of profit of lottery and other public sources of funding as well as the unbiased redistribution of these funds.

Recommendations for advancing the right to freedom of expression and peaceful assembly of LGBTIQ people

1. Strengthen the awareness of the citizens of the Republic of Croatia about the constitutional right to public assembly and peaceful protest through:
 - a. Amending the curricula of civic education for secondary schools,
 - b. Public and educational campaigns of the Ministry of the Interior,
 - c. Public statements by authorities,
 - d. Public statements and educational campaigns by civil society organizations and trade unions.
2. Put additional efforts in educating police officers and legal services of the Ministry of the Interior in order to avoid any possibility of misapplication of the law pertaining to exercise and enjoyment of the constitutional right to a public assembly.
3. By amending or supplementing the Criminal Code and the Civil Procedure Act, ensure free and undisturbed public activity through media channels as well as of human rights defenders allowing for the critique of all public persons, in particular public officials, without fear of lawsuits or criminal prosecution.

Recommendations for the improvement and protection of LGBTIQ in right to respect for private and family life.

1. To adopt more comprehensive legal gender recognition legislation, which should guarantee full legal gender recognition of a person in all areas, be accessible in quick and transparent manner and based on self-determination.
2. Define marriage as a "legally regulated union of family life of two persons" through the adoption of a new or through an amendment to the existing Family Act.

3. Define life partnership as a "union of family life of two persons" through amendments to the Same-Sex Life Partnership Act. Based on this, change the name of the Act into the "Life Partnership Act".
4. Introduce the practice of identifying all forms of family life: marriage, common-law marriage, life partnership and informal life partnership, and children under partner-guardianship when developing new regulations.
5. Eliminate discrimination of life partnerships and informal life partnerships in regards to the joint adoption of children under state care through the adoption of a new or supplements and amendments to the existing Family Act.
6. Eliminate discrimination of a life partner when adopting the child of the other partner who is recorded as the only parent of the child, through the adoption of a new or through amendments to the existing Family Act.
7. Eliminate all forms of indirect discrimination of life partnerships as compared to common-law married spouses in all procedures that determine the existence of an informal life partnership. Specifically, it should be ensured that the conditions and criteria for establishing an informal life partnership are identical to ones applying to common-law married spouses since the life circumstances and the social environment significantly influence the ways in which informal life partners live their family lives.
8. Adopt appropriate legal regulations that will ensure the availability of medically assisted fertilization to all persons and couples, regardless of whether medically assisted fertilization is provided in order to treat infertility or for family planning, and regardless of family status, sexual orientation and gender identity.
9. Legally regulate the existing practice of agreed (assisted) fertilizations outside the health care system by regulating the rights and protecting the interest of a person or of the same-sex couple in family planning as well as the role of a familiar donor of sex cells. Provide free and accessible family mediation for planning parental care and/or areas of parental care between legal parent and familiar donor if there is a desire for such an agreement.
10. Legally regulate the registration of parenthood in the Registry of children of same-sex couples born, adopted or conceived through medically assisted fertilization abroad.
11. Eliminate the differentiation of same-sex and different-sex couples through the Constitution of the Republic of Croatia in Article 62 (63⁵), Paragraph 2.
12. Encourage life partners and married spouses to use family mediation to resolve disputes and disagreements, available within and outside the social welfare system. It is especially important to encourage life partners to reach an agreement on dissolution of the partnership and terminate it before the registrar's office instead through the court procedure. Oblige the Ministry of Administration to record statistics on life partnerships that were terminated through providing statement of agreement to the registrar.
13. During conclusion of life partnership or marriage, respect the gender identity of persons, irrespective of gender recorded in the Registry, and use the grammatical gender that corresponds to the gender identity of the person.

Recommendations for improving the position of LGBTIQ persons in the area of employment

1. Ensure provision of additional education for judicial staff, as well as victims of discrimination in the workplace, in particular about the principle of transferring burden of proof in proceedings.

⁵ The Constitutional Court uses a different numeration of Articles of the Constitution of the Republic of Croatia that does not follow the consolidated version from 2010.

2. Establish cooperation and coordination of LGBTIQ associations and public service unions in order to jointly and effectively combat discrimination against LGBTIQ employees of public and state services.
3. Continue to implement programs to raise awareness among employers about anti-discrimination policies related to sexual orientation, gender identity, gender expression and sex characteristics, using good practices and recommendations of civil society organizations that have conducted projects and research related to employment and working conditions for LGBTIQ persons.
4. Through amendments to the laws concerning labor relations oblige each business entity to adopt legal acts and/or policies protecting the rights and prohibiting discrimination, inter alia, on grounds of sexual orientation, gender identity and/or expression and sex characteristics, and ensure that these acts and policies are available to employees.
5. Oblige ministries to adopt concrete measures to ensure a safe and non-discriminatory working environment for LGBTIQ workers in a public sector.
6. Increase the capacity of trade unions to work on combating discrimination against LGBTIQ in the workplace through the cooperation of trade unions and civil society organizations.

Recommendations for improving the position of LGBTIQ persons in education

1. Urgently ensure that all topics relating to LGBTIQ persons are treated with dignity and are based on human rights. This should be ensured by amendments of the Curriculum for Elementary and Secondary Schools, and the amendments and clarifications of the text of the National Curriculum Framework and all curricular documents, or through the adoption of a special curriculum document dealing exclusively with sex, gender, sexual orientation, gender identity, gender expression and intersex characteristics. It is especially important that LGBTIQ topics are included in the programs of humanistic and social scope of subjects, in particular civic education, sociology, philosophy, ethics, history, literature and art.
2. Remove all content and methodological omissions in the health education manuals in accordance with the recommendations of the Center for Education, Counseling and Research⁶. In addition to the above recommendations, it is particularly important to make the following changes within the module "Sex/Gender Equality and Responsible Sexual Behavior":
 - a. Ensure that content relating to responsible sexual behavior is taught in a non-judgmental, non-moralizing, sex-positive and scientifically-based approach, placing in its center the principle of consent and respect between all sexual partners. Such a module must also take into account the need of young LGBTIQ persons to obtain all relevant information regarding responsible and safe sexual behavior when engaging in sexual relations.
 - b. Within the scope of the topic "Marriage, Parenting and Family", add and elaborate on the concept of life partnership and provide information on common-law marriage and informal life partnership. Remove legally unsubstantiated, incorrect and manipulative claims that lead to a false conclusion that same-sex families with children do not live in Croatia.

⁶IN CROATIAN: „Analiza modula 'Spolno/rodna ravnopravnost i odgovorno spolno ponašanje' i „Prevenција nasilničkog ponašanja“ priručnika za Zdravstveni odgoj“, mr.sc. Nataša Bijelić, Centar za edukaciju, savjetovanje i istraživanje, CESI, Zagreb, 2013.: http://www.cesi.hr/attach/_a/analiza_prirucnika_zo~2.pdf

- c. Address the content related to "Stigmatization and Discrimination against Sexual Minorities" (first and second class period) in a significantly modified way. Give more appropriate name to the topic. Develop a completely different workshop for this class using contemporary literature and appropriate and adequate terminology in the field of social sciences, sociology and law, and in collaboration with experts who have experience working on combating homophobia, biphobia and transphobia.
 - d. When addressing the LGBTIQ themes, one must always have in mind the right and dignity of LGBTIQ students who are also participating in health education classes and may not be out about their identity. Also, be cognizant that there are also students who have same-sex parents who are greatly stigmatized and discriminated against by the content of the existing Handbook.
 - e. Remove all religious content related to LGBTIQ topics from the scope of health education.
 - f. Do not ever use the term "Pride Parade" because this is not the name of the event that has been held in Croatia for more than 15 years. The event is called the Pride March. When using terms related to LGBTIQ persons, always use the terms that LGBTIQ persons use when describing themselves and their identities.
3. Provide additional and comprehensive training for teachers, as well as students who are being trained in teaching professions, on all issues pertaining to LGBTIQ persons, which should become part of the national curriculum in accordance with recommendations 1 and 2 above.
 4. In order to create a positive environment for LGBTIQ students in elementary and secondary schools, develop a comprehensive and long-term national strategy against peer violence in schools, which will deal with combating homophobia and transphobia in accordance with the "Guidelines for Combating Homophobia and Transphobia and Peer Violence based on Sexual Orientation and Gender Identity in Schools", developed by Lesbian Organization Rijeka LORI⁷.
 5. Urgently adopt a comprehensive legal regulation that will regulate the legal recognition of gender and self-determination of sex, which will include provisions that apply to the rights of trans persons wishing to change the entry of all data in the Register for students of primary and secondary schools to the appropriate gender and personal name.
 6. Initiate changes in laws and international treaties to ensure religious teaching is implemented in religious institutions.

Recommendations for the improving the rights of LGBTIQ persons in the area of healthcare

1. Include and develop a special and comprehensive program related to LGBTIQ persons within the scope of the National Health Care Strategy, with special emphasis on the health care of trans and intersex persons and based on the latest edition of the Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People by the World Professional Association for Transgender Health (WPATH).

⁷ IN CROATIAN: „Smjernice za suzbijanje homofobije i transfobije te vršnjačkog nasilja na osnovi spolne orijentacije i rodnog identiteta u školama“ Lezbijska organizacije Rijeka, Lori, Rijeka, 2016.: https://www.lori.hr/images/stories/download/Smjernice_za_suzbijanje_homobitransfobije_u_skolama.pdf

2. Provide additional vocational education or training for experts to ensure an adequate standard of health care for LGBTIQ persons, with particular emphasis on trans and intersex persons.
3. By amending and supplementing the law and/or special legislation on respect and legal recognition of gender identity and self-determination of sex, ensure the right of transgender persons to access comprehensive and lifelong health care and all desired and not required medical procedures for modification of sex.
4. By amending and supplementing the law and/or special regulation on respect and legal recognition of gender identity and self-determination of sex, prohibit any inhumane treatment of persons and their physical integrity due to their intersex characteristics, including all forms of unnecessary surgical procedures without the consent of the person.
5. Make birth control methods and procedures, as well as means for protection against sexually transmitted diseases, including antiretroviral prophylaxis (PrEP) in HIV/AIDS prevention, available to all persons. It is especially important that these methods are free and accessible to youth, unemployed and/or socially vulnerable persons. Birth control and protection measures for sexually transmitted diseases must be made available to everyone in such a way that responsibility for control and protection is not placed on only one sex.

Recommendations for the improving the rights of LGBTIQ in the area of housing

1. Include specific groups of LGBTIQ people, particularly young LGBTIQ people victims of domestic violence, trans people, trans women particularly, victims of partner violence and LGBTIQ homeless people on priority lists for access to public housing.
2. Take effective measures to eliminate all forms of discrimination against LGBTIQ persons, same-sex couples or life partners or partners in all areas pertaining to housing, as well as through the strengthening of the legal framework.
3. Take effective measures to raise awareness of the landlords or people who seek apartments on existing legislation prohibiting discrimination in housing.

Recommendations for advancement of the position of LGBTIQ persons in the field of sport

1. Adopt appropriate measures in the scope of the national strategy for development of sports in order to create the prerequisites for greater involvement of LGBTIQ persons in professional and amateur sports as well as to enable a positive environment for coming out of LGBTIQ athletes.
2. Adopt comprehensive and systematic measures for education and sport in order to eliminate all forms of discrimination in access to sport, including protection against violence, hate speech and all forms of harassment of athletes and fans on sports events. This applies in particular to forms of discrimination based on ethnicity, skin color, nationality, disability, gender, sexual orientation, gender identity and gender expression.
3. Establish effective and independent disciplinary bodies in the national sports federations with the authority to impose financial and other disciplinary measures against persons who, through their conduct, violate the principle of non-discrimination in sport.

Recommendations for the improving the rights of LGBTIQ asylum seekers

1. Remove all the countries which criminalize same-sex activities from the list of the "List of Safe Countries of Origin".

1. Provide adequate translation to asylum seekers for all legal communication, especially for the interviews about their requests. The translation should be available in their native language and some languages, such as Bengali, is still not available in Croatia.
2. Provide additional vocational education or training for police officers working on asylum cases with the emphasis on understanding the concepts of sexual orientation and gender identity, LGBTQ experiences, safety of LGBTQ refugee shelters and about their specific needs.
3. Make statistics on the approvals of international protection on the basis of which it is awarded, including sexual orientation and gender identity, accessible upon the request to the organizations working with refugees and asylum seekers.

Section 1 – Implementation of the Recommendation

Prohibition of discrimination based on sexual orientation, gender identity, and gender expression is regulated through a series of laws, regulations and two national policies. Sex characteristics are not recognized by Croatian legislation.

The main anti-discrimination legislation applicable to LGBT persons is **Anti-Discrimination Act**⁸ and **Gender Equality Act**⁹. These two main anti-discrimination acts embody fundamental principles of the Constitution of the Republic of Croatia¹⁰, as stipulated in Chapters 2 and 3. Articles that pertain in particular to the protection of LGBT persons are Article 14: “*All persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, color, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics*” and Article 35, which guarantees to everyone “*respect for and legal protection of each person’s private and family life, dignity, reputation.*”

The Anti-Discrimination Act prohibits all discrimination in all aspects of human life (both private and public life) on a variety of grounds including **gender identity, gender expression and sexual orientation. It does not mention sex characteristics.** The act also provides for shifted burden of evidence in procedures to seek redress for damages in case of discrimination or class actions. The Act came into force on January 1, 2009. It covers the implementation of four European Union directives: 1) Council of Europe Directive 2000/43/EC from June 29, 2000 on applying the principle of equal treatment regardless of racial or ethnic origin; 2) Council of Europe Directive 2000/78/EC from November 27, 2000 on the general framework for equal employment and occupation treatment; 3) Council of Europe Directive 2004/113/EC from December 13, 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services and 4) Directive 2006/54/EC of the European Parliament and of the Council of Europe from July 5, 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. The Anti-Discrimination Act recognizes different forms of discrimination: direct and indirect discrimination (Article 2), harassment and sexual harassment (Article 3), segregation (Article 5), prohibition of failure to make reasonable adjustments and prohibition of encouragement to discrimination (Article 4), victimization (Article 7), multiple discrimination, repeated discrimination and continued discrimination (Article 6). Discrimination is

⁸ *Anti-Discrimination Act (Official Gazette, OG, 85/2008; 112/2012)*, the unofficial English translation:

<http://www.prs.hr/index.php/english/anti-discrimination-act>

Please note that “gender identity and expression” (In Croatian: “*rodni identitet i izražavanje*”) has been incorrectly translated in this unofficial document as “*native identity*”, since the word “*rod*” in Croatian language can also have a meaning of *lineage* or *kindship* but using Croatian word “*rod*” in that context is now outdated. However, the legislator clearly meant “gender identity and gender expression” and in annual reports Ombudsperson on Gender Equality always refers to “gender identity” (In Croatian “*rodni identitet*”). In addition, we have also identified that translation of several European Union-related documents to Croatian language refer to “gender identity” as “sex identity” (In Croatian: “*spolni identitet*”). This is, for example, evident in the [Croatian language official translation](#) of the Directive 2012/29/EU on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Zagreb Pride recommends that public policy makers use terminology in Croatian language in alignment with “Gender Equality Glossary According to the Standards of the European Union” (In Croatian: “*Pojmovnik rodne terminologije prema standardima Europske unije*”, Croatian Government - Office for Gender Equality, Zagreb, 2007)

⁹ Gender Equality Act (OG 82/2008, 69/2017): <http://prs.hr/index.php/english/gender-equality-act>

¹⁰ The Constitution of the Republic of Croatia (OG 56/1990, 135/1997, 113/2000, 28/2001, 76/10, 05/2014), official consolidated text from 2010: www.sabor.hr/fqs.axd?id=17074

Please note that this translation does not contain provision in Article 62, Paragraph. 2 adopted in 2013 through a popular referendum which states: “*Marriage is a life union of a woman and a man*”.

explicitly prohibited by all state bodies, as well as by local and regional governments, legal persons with public authorities and all companies and individuals in all areas of private and public sector, explicitly listing these areas: employment; education, science and sport; social security; health protection; jurisdiction and administration; housing; public information and media; access to goods and services; access to trade unions, or organizations of civil society, or political parties; contribution in cultural and art creation (Article 8). However, in relation to LGBT persons, certain areas of family and marriage are excluded from the prohibition of discrimination in Article 9, Paragraph 10¹¹.

In addition to the most relevant anti-discrimination legislation, several other sectoral laws include anti-discrimination regulation on the grounds of sexual orientation and/or gender identity and gender expression. The following laws prohibit discrimination based on sexual orientation: the Act on Science and Higher Education¹², the Media Act¹³, the Sport Act¹⁴, the Criminal Procedure Act¹⁵, the Civil Servants Act¹⁶ and the Police Act¹⁷. The following laws prohibit discrimination based on both sexual orientation and gender identity: the Criminal Code¹⁸, the Life Partnership Act¹⁹, the Electronic Media Act²⁰, the Volunteering Act²¹ and the Act on International and Temporary Protection²².

Additionally, in the reporting period between 2014 and 2017, two national public policies were implemented in the Republic of Croatia. The first one is the **National Gender Equality Policy²³ for the period from 2011 to 2015**, adopted by the Croatian Parliament. The other national public policy is the **National Plan for the Protection and Promotion of Human Rights²⁴** for the period from 2013 to 2016, adopted by the Government of the Republic of Croatia. During the drafting process of the above-mentioned measures, Zagreb Pride and other LGBTIQ organizations were consulted by the Office for Gender Equality and the Office for Human Rights and Rights of National Minorities. These two main national public policies for human rights and gender contained a total of only 9 measures directly related to LGBTIQ persons. We consider

¹¹ *“placing in a less favourable position when regulating the rights and obligations arising from family relations when it is stipulated by law, particularly with the aim to protect the rights and interests of children, which must be justified by a legitimate aim, protection of public morality and favouring marriage in line with Family Act provisions;”* (Article 9, Paragraph 10, Anti-Discrimination Act, OG 85/2008)

¹² Act on Science and Higher Education (OG 123/2003, 198/2003, 105/2004, 174/2004, 02/2007, 46/2007, 45/2009, 63/2011, 94/2013, 139/2013, 101/2014, 60/2015, 131/2017),

¹³ Media Act (OG 59/2004, 84/2011, 81/2013)

¹⁴ Sport Act (OG 71/2006, 150/2008, 124/2010, 124/2011, 86/2012, 94/2013, 85/2015, 19/2016)

¹⁵ Criminal Procedure Act (OG 152/2008, 76/2009, 80/2011, 121/2011, 91/2012, 143/2012, 56/2013, 145/2013, 152/2014, 70/2017)

¹⁶ Civil Servants Act (OG 92/2005, 140/2005, 142/2006, 77/2007, 107/2007, 27/2008, 34/2011, 49/2011, 150/2011, 34/2012, 49/2012, 37/2013, 38/2013, 01/2015, 138/2015, 61/2017)

¹⁷ Police Act (OG 34/2011, 130/2012, 89/2014, 151/2014, 33/2015, 121/2016)

¹⁸ Criminal Code (OG 125/2011, 144/2012, 56/2015, 61/2015, 101/2017)

¹⁹ Life Partnership Act (NN 92/2014)

²⁰ Electronic Media Act (OG 153/2009, 84/2011, 94/2013, 136/2013)

²¹ Volunteering Act (OG 58/2007, 22/2013)

²² Act on International and Temporary Protection (OG 70/2015, 127/2017)

²³ IN CROATIAN: Nacionalna politika za ravnopravnost spolova za razdoblje od 2011. do 2015. godine: <https://ravnopravnost.gov.hr/nacionalna-politika-za-ravnopravnost-spolova-2011-2015/1713>

²⁴ IN CROATIAN: Nacionalni program zaštite i promicanja ljudskih prava za razdoblje od 2013. do 2016. godine.: <https://pravamanjina.gov.hr/pristup-informacijama/strategije-planovi-i-izvjesca/nacionalni-programi-547/547>

that these 9 measures²⁵ are not sufficient for significant progress in reducing the violence and discrimination or for increasing the acceptance of LGBTIQ persons in Croatian society, and that all measures in national human rights and gender equality policies should also apply to LGBTIQ persons. While the impact of the implementation of measures included in the National Program for the Protection and Promotion of Human Rights is measurable, the impact of implementing the National Gender Equality Policy is difficult to evaluate since it is structured in such a way that there are no clear criteria and indicators to measure its performance²⁶. In addition to the above-mentioned national policies, there is the **National Anti-Discrimination Plan**, which has not been implemented in the reporting period (2014-2017). The National Anti-Discrimination Plan was implemented in the period 2008 – 2013²⁷, however, it **did not contain any measure that would apply to LGBTIQ persons**. The new National Anti-Discrimination Plan is foreseen for the period 2017 - 2022, and it contains more measures pertaining to LGBTIQ persons, however the implementation of this program began only in 2018, since it the adoption plan was delayed by the Deputy Prime Minister Davor Ivo Stier who opposed proposed LGBT measures^{28,29}. The Plan was eventually adopted in December 2017³⁰, 6 months after Deputy Prime Minister Stier resigned³¹. In addition, the new National Gender Equality Policy has not been adopted since 2015 for the same reason. It is particularly alarming that the adoption of new national policies, programs and plans for future period was postponed for a year due to opposition to protect the LGBTI rights.

²⁵ First 6 measures apply to National Gender Equality Policy while remaining 3 to the National Plan for the Protection and Promotion of Human Rights: **1.** Monitoring of statistical data on court procedures and police conduct regarding criminal offenses motivated by sexual orientation of the victim; **2.** Representatives of organizations working on LGBT equality should be involved in working bodies for the adoption of laws, programs and strategies related to the rights of sexual minorities; **3.** Raise the level of knowledge and awareness on the types of sexually transmitted diseases, their prevention and effective protection; **4.** Provide systematic education of the judiciary, municipal and county state attorneys, health care professionals and employees of educational institutions, family centers and police administrations, social workers, and experts in the field of mental health protection in order to improve the provision of legal protection and assistance to victims of violence, especially victims of sexual violence and victims of discrimination based on sexual orientation, gender identity and gender expression; **5.** Organize and implement campaigns and other (public) activities (...) on the issue of gender-based violence, including trafficking in human beings and prostitution as well as violence against LGBT people (...) in order to inform and raise public awareness (...); **6.** The competent state administration bodies, Gender Equality Commissions, in cooperation with civil society organizations, should regularly mark the International Day of Combating Homophobia and Transphobia - May 17; **7.** Organize expert discussions on discrimination based on sexual orientation; **8.** Include issues related to the rights of LGBT persons in elementary and secondary education within the framework of health education; **9.** Establish a working group for analysis and proposals for measures to improve the rights of transgender persons.

²⁶ As is evident from previous footnote, the National Gender Equality Policy measures are written in a general manner, with no deadlines set for their implementation, the action plan for implementation is neither envisaged nor adopted and there are no indicators set to measure its impact. For example, the exact number of attendees of educations is not indicated (measure 4), the planned campaigns do not indicate concrete and measurable goals and it is not clear if any responsibilities set out in a case of non-implementation (Measure no. 5).

²⁷ Nacionalni plan za borbu protiv diskriminacije 2008. - 2013. godine:
<https://adsdatabase.ohchr.org/IssueLibrary/Nacionalni%20Action%20Plan%20Against%20Discrimination%20Croatia.doc>

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²⁸ Croatia Risks Losing EU Cash For Anti-Discrimination Plan, Sven Mikelic, BIRN, February 23, 2017:
<http://www.balkaninsight.com/en/article/croatia-risks-losing-funds-due-to-anti-discrimination-plan-02-22-2017>

²⁹ One Year Late, Croatia Adopts More Liberal Anti-Discrimination Plan, Vedran Pavlic, Total Croatian News, December 7, 2017: <https://www.total-croatia-news.com/politics/23813-one-year-late-croatia-adopts-more-liberal-antidiscrimination-plan>

³⁰ Nacionalni plan za borbu protiv diskriminacije za razdoblje od 2017. do 2022. godine:
<https://pravamanjina.gov.hr/UserDocsImages/dokumenti/Nacionalni%20plan%20za%20borbu%20protiv%20diskriminacije%20za%20razdoblje%20od%202017.%20do%202022..pdf>

³¹ 'Foreign Minister Resigns', Vedran Pavlic, Total Croatian News, June 12, 2017: <https://www.total-croatia-news.com/politics/19637-foreign-minister-stier-resigns>

Section 2 – Implementation of the specific provisions in the Appendix

2.1. *Right to life, security and protection from violence*

2.1.A. “Hate crimes” and other hate-motivated incidents

The Criminal Code³² is the main legal provision for sanctioning all forms of hate-motivated violence, more specifically - hate crimes.

In the period between 2014 and 2017, the Croatian Parliament has adopted, through amendments to the Criminal Code, two important changes related to hate crime. The first important change is **an addition to the definition of hate crime so that the basis of "language"³³ was reintroduced** as one of the grounds for committing hate crimes. Another important change is the **reintroduction of the criminal offense of "violent behavior"**, which represents one of the most common forms of hate crimes against LGBT persons.

Prompt and impartial investigation into alleged cases of hate crimes has been carried out with some difficulties.

Independent procedure for submitting reports on homophobic/transphobic hate crimes and other incidents allegedly committed by law enforcement does exist. If there is a complaint that a hate crime has been committed by the law-enforcement, namely by the police officer on duty, the victim may file the complaint to the Gender Equality Ombudsperson who acts as the independent public body for the protection against discrimination based on sexual orientation and gender identity. The Gender Equality Ombudsperson can file a criminal report and/or monitor the criminal investigation against a police officer. Between 2013 and 2017, we received no reports of alleged homophobic/transphobic hate crimes committed by the law enforcement, but we received a report of one transphobic incident where a police officer refused to record a complaint in a transphobic hate crime.

In addition, any person may file a complaint regarding any police officer's conduct or their work to the Internal Control Department of the Ministry of Internal Affairs, which has an authority to issue disciplinary measures against police officers.

2.1.A.1 Hate crime legislation

Since 2013, the Criminal Code has been enforced that **recognizes ‘hate crimes’ as criminal offences committed on account of both sexual orientation and gender identity, among other grounds. Sex characteristics are not recognized as a ground for committing hate crimes.** The current hate crime legislation also **obliges the court to take bias as an**

³² Criminal Code (OG 125/2011, 144/2012, 56/2015, 61/2015, 110/2017):

<http://www.mvep.hr/files/file/dokumenti/prevodenje/zakoni/kazneni-zakon-nn-125-11-eng.pdf>

Please note that this English translation of the Criminal Code is an integral version from 2011, and that changes have been made in 2012, 2015 and 2017. Some of these changes apply to hate crimes which is explained further in the text.

³³ It refers to language in speech and writing. The intent of extending the grounds for hate crime motives is to contribute to a more efficient combating of discrimination, to allow for sanctions of those cases that have so far not been subject to criminal offense classification, and to better harmonize the Criminal Code with the grounds for discrimination set out in Article 14, Paragraph 1 of the Constitution of the Republic of Croatia and Article 1 of the Anti-Discrimination Act.

aggravating circumstance if more severe punishment is not explicitly proscribed by the Criminal Code.

Criminal Code

Title VIII Meanings and Terms Used in this Act

Article 87, Paragraph 20

*A hate crime shall mean a criminal offence committed on account of a person's race, color, religion, national or ethnic origin, language, disability, sex, **sexual orientation or gender identity**. Unless a more severe punishment is explicitly proscribed by this Act, such conduct shall be taken as an aggravating circumstance.*

In regards to stricter punishment of hate crimes, when compared to the same crime committed without the hate element, the Criminal Code already provides for stricter punishment for certain criminal offenses. Usually, it is applied to particularly serious criminal offenses or acts whose consequences have particularly difficult effect on the victims. Under the applicable law, these are: aggravated murder, female genital mutilation, bodily injury, serious bodily injury, particularly serious bodily injury, all serious crimes against sexual freedoms, and provoking riots.

In all cases of hate crimes, criminal proceedings are initiated ex officio, as opposed to some criminal offenses such as coercion and threats in which, when there are no hate elements, the victim has to independently initiate criminal prosecution through private lawsuit and incur costs for legal services. Since 2013, it is sufficient to report a criminal offense of threat that contains a hate element on one of the recognized grounds to the police who are then required to initiate the procedure ex officio. This is a significant improvement compared to the old Criminal Code that was in effect until December 31, 2012. Namely, until 2013, a hate crime victim who was threatened had to initiate private criminal prosecution against the perpetrator.

For example, in 2012, Zagreb Pride monitored a case of an LGBTIQ activist who participated in our "Enough Homophobia" campaign who received messages on social media from the group of younger men and members of their families that contained elements of threats based on his sexual orientation. Given that the old Criminal Code was in force in 2012, the only option for initiating a criminal prosecution was filing a private lawsuit. In the case that such situation occurs now, the police and/or the State Attorney's Office would be obliged to initiate prosecution ex officio.

The implementation of these criminal provisions has been **inconsistent** and some hate crime reports are still **inadequately processed by the police**, resulting in being incorrectly qualified as misdemeanors instead of hate crimes. **For more details please see the Chapter 2.1.A.5. Hate crimes – case studies.**

2.1.A.2 Underreporting of homophobic and transphobic hate crimes

Underreporting of homophobic and transphobic hate crimes remains extremely high. One of the biggest obstacles for combating hate crime is that a **significant number of violence against LGBTIQ persons, probable cases of hate crime, remain unreported to the police, State Attorney's Office and even LGBTIQ associations.** This is also confirmed by the Zagreb Pride's survey from 2013³⁴, which found that just under 8% of the respondents reported hate

³⁴ Brutal Reality: A Research Study Investigating Anti-LGBTIQ Violence, Discrimination and Hate Crime in Croatia: <http://www.zagreb-pride.net/en/brutal-reality-research-study-investigating-anti-lgbtiq-violence-discrimination-hate-crime-croatia/>

crime to the police. A common reason for not reporting violence is a lack of confidence in the police's conduct and work or in the level of education and sensitization of individual police officers, as well as the fear of revealing the victim's sexual orientation or gender identity. LGBT victims of hate crime often diminish the importance of the incident themselves, believing that violence against LGBT persons is a common occurrence and that reporting it cannot improve these circumstances. This is also confirmed by the research of the European Fundamental Rights Agency (FRA) from 2012³⁵.

Limited measures have been taken by the authorities in order to encourage victims to report homophobic/transphobic hate crimes. In 2012, the Ministry of Interior partnered with LGBTIQ civil society organizations in an awareness raising campaign for hate crime reporting³⁶. This campaign had been initiated by civil society organizations and therefore did not have a lasting commitment by the police. In nearly all police stations in Croatia there is a general lack of leaflets and other informational publications offered pertaining to hate crimes. In comparison, materials pertaining to drug abuse, theft, trafficking, illegal possession of weapons and to some extent, gender-based violence, are offered not just in the police stations, but in many other public institutions.

There are no special measures which recognize or identify any specific LGBT groups with heightened vulnerability, such as LBT women, LGBT persons of color, LGBT persons of ethnic minority background (including Roma persons), LGBT persons from religious minorities, LGBT sex workers and LGBT persons with disabilities. **However**, the existing nine grounds for committing a hate crime could, if applied correctly, recognize a hate crime committed on multiple grounds. This could not be applied for recognizing any special protection of LGBT sex-workers, since there are no policies or measures that could be applied to protect sex workers in general. **For more information, please see the Chapter 2.12. – Discrimination on multiple grounds**

Units tasked specifically with investigating the hate crimes within the police do exist. Unit for Counter-Terrorism and Extreme Violence is mandated to investigate hate crimes. This unit falls under the Crime Police Sector at all of the 20 Police Administrations³⁷. **There are no liaison officers tasked with maintaining contact specifically with LGBT communities.** At the lower municipality police level, most of the police stations establish “contact-police officers”, tasked with maintaining contact with the people living in a certain area, for example neighborhoods, in order to protect and support the community in need, mostly in cases of the most common crimes and misdemeanors. However, providing support for hate crimes is not mentioned as one of their tasks³⁸. These “contact-police officers” are also not encouraged to work with LGBT communities, and we did not document any attempt of reaching out to the LGBT community. **System of anonymous and online complaints to the police is called E-dojave** (in English: e-reports). It is **possible to report any suspicious, criminal, and/or illegal activity** directly to the police via mobile application by sending text and/or media. The service is

³⁵ EU LGBT Survey: <http://fra.europa.eu/en/survey/2012/eu-lgbt-survey>

³⁶ IN CROATIAN: Projekt suzbijanja zločina iz mržnje predstavljen u LGBT Centru u Zagrebu: <http://www.forenzika.hr/155326/247.aspx>

³⁷ For immediate conducting of police affairs there are 20 Police Administrations (In Croatian: *Policijska uprava, PU*) divided into several categories (General Main Police; Crime Police; Border Police; 112), which cover the territory of the Republic of Croatia across its 20 counties (In Croatian: *županija*).

³⁸ IN CROATIAN: Policija u zajednici: <https://gov.hr/moja-uprava/pravna-drzava-i-sigurnost/javni-red-i-mir/policija-u-zajednici/286>

available on three most common mobile app platforms and in four different languages, Croatian, English, Italian and German³⁹.

2.1.A.3 Documenting and reporting hate crimes

According to the Hate Crime Protocol⁴⁰, data on hate crime is systematically collected by the Government's Office for Human Rights and Rights of National Minorities (Article 20). The data is collected from the reports of the State Attorney's Office, the Ministry of Interior and the Ministry of Justice twice a year. Representatives of these institutions also form a (*National Working Group for Monitoring Hate Crime*) to which a representative of civil society organizations working with hate crimes is also appointed. Zagreb Pride informs the National Working Group about our data on hate crimes through reports sent to a civil society representative. These reports are compared and compiled as a "joint national report on hate crime." Therefore, the Government's Office for Human Rights and Rights of National Minorities holds the most comprehensive data on hate crimes. All these Ministries, except for the Ministry of Justice, also make their hate crime reports publicly available, however, without the data on hate crimes being classified according to nine grounds recognized by Criminal Code. However, it is possible to obtain the data on hate crimes committed on the grounds of sexual orientation and gender identity directly from the Government's Office for Human Rights and Rights of National Minorities upon the request. **Peoples' Ombudsperson⁴¹ and Ombudsperson for Gender Equality⁴² publish data on hate crimes classified by grounds, including anti-LGBT hate crimes and make it publicly available in their annual reports. Zagreb Pride also publishes both official data on anti-LGBT hate crimes and hate crimes reported to Zagreb Pride⁴³.** Some of the hate crimes reported to Zagreb Pride are not included in "joint national report on hate crime" because there is still a tendency of the police to incorrectly qualify hate motivated criminal offences against LGBT persons as misdemeanors, rather than as hate crimes. After the final verdict is reached in the misdemeanor proceedings, the criminal charge against the perpetrator of the incorrectly qualified hate crime cannot be filed.

We have identified **methodology of recording the hate crimes by interviewing several** professionals working in public institutions on collecting official hate crime data. At the county and municipal State Attorney's Offices, reports are received by the deputy counsellor. There is no specific form for hate crimes so a general form for filing a criminal report is being used. Unless the report is anonymous, the personal information is taken from the person's identity card and this information is only available to the employees of the office. Officials working on a particular case are obliged to report on the cases they are working on, so that these joint reports and statistics could be compiled. When a case is forwarded from the police, they report on the phase of the process and investigation. All cases are monitored from the initial receipt of the criminal report until the final completion of the criminal proceedings and the final verdict. The State Attorney's Office of the Republic of Croatia gathers and centralizes all the information from the county and municipal offices and compiles the data about verdicts. The State Attorney's Office compares their data with the Ministry of Interior, twice a month.

³⁹ IN CROATIAN: Nove mogućnosti MUP-ove mobilne aplikacije za e-dojave: <https://www.mup.hr/novosti/803/nove-mogucnosti-mup-ove-mobilne-aplikacije-za-e-dojave>

⁴⁰ IN CRATIAN: Protokol o postupanju u slučaju zločina iz mržnje: <https://pravamanjina.gov.hr/UserDocsImages/arhiva/protokoli/Protokol%20o%20postupanju%20u%20slučaju%20zločina%20iz%20mržnje.pdf>

⁴¹ People's Ombudsperson – Annual Reports: <http://ombudsman.hr/en/reports>

⁴² Gender Equality Ombudsperson – Annual Reports: <http://www.prs.hr/index.php/english/annual-reports>

⁴³ Report of Zagreb Pride on the Human Rights of LGBTIQ Persons in Croatia 2010 – 2013: <http://www.zagreb-pride.net/new/wp-content/uploads/2013/10/Pink-Megaphone.pdf>

When a hate crime is reported to the police directly at police stations, the personal information that is noted is the Personal Identification Number (In Croatian: *OIB or osobni identifikacijski broj*), date and place of birth, and names of the parents. Access to this information is available to the police, courts and social service centers. The data is stored in the database of the Ministry of Interior, thanks to which cases marked as hate crimes can be searched by grounds, by proceedings etc. Only certain employees can access this data, by logging into the database with a password. Cases of violation of privacy of LGBT victims of hate crimes during the investigation phase have been recorded by national LGBT organizations last time in 2012.

One professional who was interviewed emphasized that statistics were not being collected systematically by courts, and that they only include data for the cases that reached a final verdict. Because of the principle of the separation of powers, the ministries cannot *force* the courts to create a uniform system of data collection with the ministries, and there is not enough political will for cooperation between these two branches of powers to work together on providing the public with a more detailed hate crime statistics.

There are no special measures adopted or implemented by any governmental body that would regularly gather data on levels of social acceptance towards LGBTIQ people. However, the general legal provisions oblige Ombudsperson for Gender Equality and the Governmental Office for Gender Equality to conduct independent studies and reports on discrimination and share the data with analogues European bodies (Article 18, Paragraph 5 and Article 19, Paragraph 6 of Gender Equality Act). None of these bodies have ever supported an extensive study on social acceptance on LGBT persons. However, the annual reports of the Ombudsperson for Gender Equality do indicate that data used in these reports is relevant and accurately gathered. **In addition**, data stemming from recent LGBT studies and surveys, including the one on social acceptance of LGBT persons, is collected and/or provided by civil society organizations⁴⁴. These studies and surveys have been supported as one of the regular project activities within the scope of the EU-related projects and/or co-sponsored by different governmental bodies. Most of this data is shared with researchers and universities that also contribute in providing such data, independently from the activities of the civil society organizations. Most of the available data has also been used in creating this report.

2.1.A.4. Zagreb Pride's compiled data on hate crimes

Concerning hate crime cases that have been reported to Zagreb Pride in the period from 2014 to 2017, we recorded a slight decrease in the total number of reports of serious homophobic and transphobic incidents when compared to the period from 2010 to 2013. This is especially related to more severe forms of violence, for example, serious bodily injury motivated by hate (Table 1), which were not recorded in this reporting period. Zagreb Pride recorded a total of 8 cases of hate crimes in the period from the beginning of 2014 until the end of 2017. All of them relate to the criminal offense **of violent behavior (see 2.1.A.5 for detailed case descriptions)**. For each case of hate crime reported to Zagreb Pride, a criminal report was filed. The State Attorney's Office has dismissed 3 criminal charges because the offence was misqualified by the police as misdemeanor and the perpetrators had already been sentenced in misdemeanor proceedings. In the case of a transphobic hate crime, since the perpetrator was a minor, they were prescribed a disciplinary measure (Table 1), therefore this case was also not recorded as hate crime in official statistics. Out of the remaining four hate crime cases recorded by Zagreb Pride, only one criminal procedure was initiated by the State Attorney's Office, while the remaining three perpetrators were never identified by the police.

⁴⁴ 2013, 2014 and 2016 survey conducted by the polling agency IPSOS PULS for Zagreb Pride is available at Zagreb Pride and can be shared on request.

Another alarming fact is that most of these hate crime reports were recorded right after the parliamentary elections in 2015, which further reinforced the atmosphere of intolerance towards LGBTIQ persons that arose before and during the referendum on the prohibition of same-sex marriage in 2013. During this period, there has also been a significant increase in the reporting of hate speech against LGBTIQ people, as described in the **Chapter 2.1.B.1**.

Period (years)	Total number of recorded hate crimes	Hate crimes based on sexual orientation	Hate crimes based on gender identity
2010 – 2013	10	10	0
2014 – 2017	8	7	1
TOTAL	18	17	1

Similar to the previous report on the situation of human rights of LGBTIQ persons in Croatia, cases of hate crimes recorded by Zagreb Pride do not correspond to the official records based on the number of criminal proceedings initiated by the courts according to the data of the Ministry of Justice (Table 2).

In the same period, according to the official records of the Ministry of Justice, the Croatian courts received a total of 10 cases pertaining to hate crimes committed because of the sexual orientation of the victim, while no cases related to gender identity were recorded.

Year	Total number of recorded criminal offences related to hate crime – Ministry of Interior	Number of recorded criminal offences related do hate crimes based on sexual orientation - Ministry of Interior	Number of recorded criminal offences related do hate crimes based on gender identity - Ministry of Interior	Total number of initiated criminal offences related to hate crime – Ministry of Justice	Number of initiated criminal offences related do hate crimes based on sexual orientation - Ministry of Justice	Number of initiated criminal offences related do hate crimes based on gender identity - Ministry of Justice
<i>The Office for Human Rights and Rights of National Minorities does not have data on hate crime based on sexual orientation prior to 2011</i>						
2011	57 ⁴⁵	45 ⁴⁶	N/A ⁴⁷	26	18	N/A ⁴⁸
2012	26	4	N/A ⁴⁹	6	2	N/A
2013	35	2	0	17	0	0

⁴⁵ Out of this number, 22 recorded cases of hate crimes based on sexual orientation were recorded in relation to the first Split Pride March, held on June 11, 2011.

⁴⁶ Ibid.

⁴⁷ The basis of "gender identity" has not been recognized by the law until 2013.

⁴⁸ Out of this number, 22 recorded cases of hate crimes based on sexual orientation were recorded in relation to the first Split Pride March, held on June 11, 2011.

⁴⁹ Ibid.

2014	22	2	0	10	3	0
2015	24	5	0	8	0	0
2016	35	3	0	12	4	0
2017	25	7	0	18	3	0
TOTAL	224	68	0	97	30	0

Although the Republic of Croatia has significantly improved its legal framework for the protection of hate crime victims, with inter-sectoral cooperation between judicial bodies and the police established through the Protocol for Procedure in Cases of Hate Crimes (2011), **we are still witnessing serious omissions in police conduct and incorrect qualifications of criminal offences as misdemeanors or lack of detection of hate motives in a criminal offense committed because of hate.** Taking into account the fact that there is still an extremely high percentage of LGBTIQ victims of hate crimes who do not report these crimes at all (92%)⁵⁰, as well as the fact that one of the main reasons identified is the lack of trust in police conduct, there is an evident need to invest more significant efforts to improve protection of LGBTIQ persons from violence. This can be achieved through a consistent enforcement of the EU Directive on the Rights of Victims and Witnesses in Criminal Proceedings⁵¹, which aims to provide the victim with the appropriate information, support and protection, when participating in criminal proceedings. In addition, the Directive requires that victims be treated with respect, in a sensitive and professional manner and without discrimination on any ground. The consistent enforcement of this Directive, which is binding, can increase the confidence of victims not only in the work of the police but also other actors involved in criminal proceedings: the State Attorney's Office, which until now had no obligation to work directly with victims of criminal offences, and civil society organizations that provide victim support during investigative and criminal proceedings. Moreover, the Directive requires the establishment of a public system to assist victims and witnesses of criminal proceedings. In the Republic of Croatia, seven county courts have Victims and Witness Support Departments, and there is also an Independent Sector for Victim and Witness Support at the Ministry of Justice⁵². All of these actors work together with victims of hate crimes and their stronger cooperation could improve the protection of victims of hate crimes, increase their trust in the work of all services, and ultimately ensure them a safer life and the realization of their fundamental rights.

2.1.A.5. Hate crimes – case studies

Between 2014 and the end of 2017, Zagreb Pride recorded a total of 8 cases related to the criminal offense **of violent behavior**. The Croatian Parliament, through amendments to the Criminal Code in 2015, reintroduced the criminal offense of "violent behavior". Previously, a certain form of violence against LGBT persons was legally undocumented and undefined, and it related to violence that occurs in the public domain, which has not resulted in serious bodily injuries. This meant that there was a danger that many perpetrators of violence would be punished lightly and charged with misdemeanor.

⁵⁰ A Research Study Investigating Anti-LGBTIQ Violence, Discrimination and Hate Crime in Croatia: <http://www.zagreb-pride.net/en/brutal-reality-research-study-investigating-anti-lgbtq-violence-discrimination-hate-crime-croatia/>

⁵¹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>

⁵² IN CROATIAN: Ministarstvo pravosuđa – Podrška žrtvama i svjedocima: <https://pravosudje.gov.hr/podrsko-zrtvama-i-svjedocima/6156>

Violent behavior refers to violence that does not constitute such physical contact that, in the legal sense, can be characterized as bodily injury. However, such violence is much more intense than, for example, homophobic or transphobic verbal harassment and has a long-lasting psychological consequence for the victim⁵³. What is particularly important in recognizing violent behavior is that it occurs in public and that the intent of a perpetrator is to humiliate their victim. Many perpetrators do so to discipline or influence victim's behavior. This is done in a particularly upsetting way - verbally and/or physically, and most often accompanied by a lot of hate speech.

**Criminal Code
Violent behavior**

Article 323a

(1) Whoever, through violence, maltreatment or particularly impertinent conduct in a public place, humiliates another, while not committing a serious criminal offence, shall be punished by up to three years of imprisonment.

Violent behavior motivated by hate most often occurs at night, in front of nightclubs that are either recognized as LGBTIQ gatherings or the victim is identified as a LGBTIQ person, on public transport stops, and in the streets. Perpetrators mostly attack in groups of more than one person, usually two to five, and inflict bodily injury on one or more LGBTIQ persons. Attackers almost always use degrading insults regarding victim's sexual orientation and/or gender identity or expression. If the police officers do not arrive to the place of the incident on time, and the perpetrators flee from the scene, such perpetrators usually remain unidentified. Based on the available practice, the police find it hard to find the perpetrator on the basis of the description of the perpetrator by the victim and the witness(es).

In the period between 2010 and 2017, Zagreb Pride received numerous reports of victims of violent behavior based on sexual orientation, gender identity and gender expression, and filed or participated in filing **12 criminal reports of violent behavior**. Three cases resulted in convicting judgements against perpetrators⁵⁴, one in preliminary convicting judgement⁵⁵, and three criminal charges were dismissed due to a previously completed misdemeanor proceedings, lack of recognition of the criminal offence of violent behavior or because the criminal offence did not exist in the law at that time. By applying the principle of ne bis in idem ("no one can be persecuted twice for the same offence"), one of the criminal charges was partially rejected, while in the other two cases decisions are pending.

⁵³ In the explanation of the Final Proposal of the Act on Amendments and Supplements to the Criminal Code from March 2015, the Government of the Republic of Croatia stated that it is necessary to recognize this type of violence, which by the way of execution and consequences exceeds the limit of misdemeanor and therefore should be sanctioned as a criminal offense. This is particularly related to maltreatment of another person in a particularly impertinent way and in public places, and cites examples: pulling hair, throwing objects, kicking without injuries. For more: <http://www.sabor.hr/konacni-prijedlog-zakona-o-izmjenama-i-dopunama-ka>

⁵⁴ In 2012, the County Court of Zagreb, in "Case Sirup" from 2010, sentenced two perpetrators of the criminal offense of Violent Behavior motivated by hate to **an unconditional six-month prison sentence**. In 2012, the Municipal Criminal Court in Zagreb, in "Case Trešnjevka" from 2012, sentenced a perpetrator of the criminal offence of Violent Behavior motivated by hate to an **unsuspended eight-month prison sentence with a security measure of compulsory psychiatric treatment**.

⁵⁵ In 2017, the Municipal Criminal Court in Zagreb, in "Case Podvožnjak" from 2016 convicted a perpetrator of a criminal offense of Violent Behavior motivated by hate to a seven-month prison sentence with a probationary period of two years.

Criminal proceedings pertaining to the above mentioned reports were carried out and completed relatively quickly, and perpetrators were sentenced to six to nine months of imprisonment, and in one case imprisonment for a period of seven months with a suspended sentence of two years. One perpetrator of the criminal offence who is a minor has been prescribed a disciplinary measure by the competent social welfare center.

Only in May and June of 2016, Zagreb Pride recorded **three attacks**, more precisely the criminal offences of violent behavior related to hate crimes in the wider center of Zagreb. The police managed to qualify only one case as a hate crime independently, while in the other two cases police made serious omissions in their conduct.

The only successfully qualified hate crime occurred on May 5, 2016 in Savska Street in Zagreb, when a 27-year-old, in the presence of a friend, has verbally and physically attacked a lesbian and then verbally and physically attacked several other women, friends of the victim. In this case a convicting judgement was issued and the perpetrator, with no previous record, was sentenced to a seven-month prison sentence with a probationary period of two years for the criminal offence of Violent Behavior related to hate crime. The criminal offence was therefore recorded in the official statistics of the Office for Human Rights and the Rights of National Minorities of the Government of the Republic of Croatia, as required by the Protocol for Procedure in Cases of Hate Crimes.

The second case of violent behavior that we have recorded pertained to a hate crime against a trans woman, which took place in Ilica Street, close to the British Square on June 10, 2016.

The trans woman informed the police about the incident, but the police refused to respond and referred her to report it to the "competent police station". Since no one had informed her of any action taken after her report, the victim turned to Zagreb Pride, whose attorneys filed a criminal charge against an unknown perpetrator for the criminal offence of Violent Behavior related to hate crime. We have also informed the Gender Equality Ombudsperson, emphasizing that we are of the opinion that police officers were not taking the victim's report seriously. The Ombudsperson requested police statements about undertaken actions, after which the police, several weeks after the event, interviewed the witnesses. In February 2018, Zagreb Pride received a letter from the Municipal State Attorney's Office in Zagreb stating that the perpetrator of the attack on trans woman was identified and that he was a minor when committing the criminal offence. He was prescribed a disciplinary measure.

The third case of violent behavior, the **Case of Koturaška Street**, in which victims of hate crimes objectively suffered the most physical injuries, hate crime was qualified only as a misdemeanor against public order and peace and a series of erroneous and unlawful acts have been committed, thereby violating victims' rights. Since perpetrators were convicted in a misdemeanor procedure, criminal charge was dismissed. The perpetrators were sentenced to thirty days of imprisonment with a probationary period of one year. Had the police filed a criminal report, they would face a sentence of up to three years in prison, and the court would also have to consider hate crime as an aggravating circumstance for the perpetrators. Unfortunately, lack of recognition of the criminal offence of violent behavior is often the case⁵⁶.

⁵⁶ Due to similar omissions, a case against Croatia before the European Court of Human Rights is already pending (see Sabalic v. Croatia). Below is a more detailed description of this incident.

Detailed description of Case of Koturaška Street - hate crime against gay couple, Zagreb, May 7, 2016

In the late evening, around 11:15 PM, two men in their early 30s, who were in a long-term relationship, wandered while hugging on the road along the railway tracks from the direction of the Main Station towards their apartment in Koturaška Street. When approaching their home, the couple noticed three younger persons, one of them a girl, staring at them in a mean way and approaching them. Although one of the partners had earlier experiences with homophobic violence in Zagreb, this time he did not want to "correct" his behavior just because he was expected to, so they decided to keep holding hands "no matter what happens" as they were being approached by three unknown persons. Immediately after they passed by each other, the three homophobes turned to gay couple and started shouting: "Faggots!", "You're disgusting!", "You should be ashamed!", "We will slaughter you, faggots!" and "We will kill you!".

After homophobes noticed that verbal harassment did not "correct" the behavior of gay couple in public, they decided to physically attack them. All three attackers ran towards the gay couple. One of the attackers started hitting one of the victims with closed fists in the area of a head, and was joined by the other two attackers, after which the victim fell on the ground where they continued to hit and kick him with their hands and feet. The victim's partner, who had not had previous experience of homophobic violence, tried to interfere, but one of the perpetrators came after him and shouted insults: "You motherfucker," "Fuck off," and started kicking him with his right leg in the area of the chest, then he continued to hit him with his hands. Shortly thereafter, the attackers ran away along Koturaška Street towards the Savska Street.

The injured gay couple was stopped by the police, who happened to be passing by at the time. The couple reported that they had just experienced a homophobic attack because of their sexual orientation. While waiting with the police for the ambulance, the victims noticed their attackers returning from the direction of Savska Street to Koturaška Street. Police officers asked for perpetrators' identification, arrested them and took them away around midnight in the official police car.

The police filed a misdemeanor report for disturbing public order and peace, and the perpetrators were sentenced in misdemeanor proceedings, although the victims clearly stated to the police officers that the attack had occurred because of their sexual orientation. Adequate and lawful police conduct was absent despite the fact that the Zagreb police had handled very similar cases of violent behavior against LGBTIQ persons in the period from 2010 to 2013 as well as that the described offence is perfectly in line with the definition of violent behavior since perpetrators through "violence, maltreatment or particularly impertinent conduct in a public place placed others in a humiliating position because of their sexual orientation".

The victims, not knowing that a report for misdemeanor was filed, informed Zagreb Pride about the crime that had occurred. Being aware of the current police practice and their frequent omissions, we filed a criminal report for violent behavior related to hate crime against all three perpetrators. The criminal report was filed only three days after the crime occurred, on May 10, 2016. Unfortunately, that was, however, too late and our report was

dismissed. Namely, the Municipal State Attorney's Office in Zagreb, in its judgement from February 17, 2017 found that the perpetrators were sentenced in misdemeanor proceedings on May 8, 2016, only one day after the crime occurred, which the police failed to qualify as a hate crime. Since they were punished in a misdemeanor procedure, no criminal charges could be raised against them for the same offence, so they had been dismissed.

Violence against LGBTIQ persons in Zagreb continued during 2017. At the beginning of 2017, more specifically on the night of February 11, there was an attack with an irritant substance, most likely a tear gas, on attendees of LGBTIQ party held at the Club SuperSuper. In the chaos and panic that followed the attack, two people were slightly injured when leaving the club. This event was particularly shocking for the LGBTIQ and the wider public in Zagreb, as no attack had been recorded on LGBTIQ club or party in Zagreb for over 10 years. A few days after the attack, Zagreb Pride organized a protest for support of LGBTIQ persons entitled "Love Is and Remains Stronger than Hate" at the Victims of Fascism Square in Zagreb⁵⁷, with thousands of people in attendance who requested a quick and efficient police investigation, and also called out on politicians who have been promoting hatred and intolerance against LGBTIQ persons for years. By the end of 2017, the police did not find the perpetrators and therefore no proceedings were initiated.

In conclusion, regardless of exemplary legislation pertaining to hate crimes the implementation of these provisions has been inconsistent and some hate-crime reports are still inadequately processed by the police. In addition, sex characteristics are not recognized and included in the hate crime definition. The biggest obstacle for combating hate crimes against LGBTIQ people in Croatia continues to be **the failure of police to identify hate motives and the lack of clear criteria for examining the existence of homophobic/transphobic motives when deciding on how to process a physical assault**. Through our work between 2014 and 2017, just as in the previous period, we noticed that the ongoing practice is such that police officers generally initiate misdemeanor proceedings against perpetrators if it is established that physical injuries are not "serious". **The perpetrators of hate crimes are often brought before the misdemeanor court, instead of before the criminal court, despite the fact that the victim and the witnesses had confirmed that the attack was motivated by hatred** since the perpetrator shouted homophobic or transphobic insults during the attack.

It is still quite unclear on the basis of which criteria the police officers determine whether the committed offence is motivated by hate. We believe that through the Protocol for Procedure in Cases of Hate Crimes, the adoption of a special regulation, or in another appropriate manner, the circumstances that should be examined when qualifying the offence have to be determined, indicating that the attack was motivated by hate (e.g. if the attack took place in the immediate vicinity of the gathering place of LGBTIQ persons, if the perpetrator shouted insults about LGBTIQ community etc.). This would prevent the perpetrators of hate crimes from being punished in misdemeanor proceedings, thereby avoiding criminal sanctions. It would also assist the recognition of hate crimes against LGBTIQ persons in the official statistics of the Government of the Republic of Croatia.

The most unjust consequence of the incorrect qualification of acts of hate crime as a misdemeanor by the police is the fact that the misdemeanor procedure will prevent the initiation of criminal proceedings (principle *ne bis in idem*). As a rule, misdemeanor proceedings are shorter, judgments are brought within one day and are therefore completed

⁵⁷ "Hundreds attend pro-LGBTI protest after gas attack on Croatia gay club night", Stefanie Gerdes, Gay Star News, February 14, 2017: <https://www.gaystarnews.com/article/lgbti-protest-zagreb-gas-attack/#gs.wxHphdE>

before the victim manages to seek legal aid and file a criminal report. In that case, the victim is legally injured because they did not receive appropriate legal aid. However, **there is a good practice of the State Attorney’s Office to notify misdemeanor courts that a criminal report has been filed with a request for suspension of misdemeanor proceedings, which may in some cases correct errors in a police work.**

2.1.B. “Hate speech”

“Hate speech” is prohibited by several provisions in different laws, however, the implementation is poor and other measures that would effectively ban hate speech have not been adopted. The Constitution of the Republic of Croatia in the Article 39 proscribes that *“any call for or incitement to war or use of violence, to national, racial or religious hatred, or any form of intolerance shall be prohibited and punishable by law”*. This constitutional provision is embodied in two separate laws: The Criminal Code (Art. 325) and the Anti-Discrimination Act (Art 25). **Formulation of the Article 325 of the Criminal Code is in line with the Article 10 of the European Convention on Human Rights and with the Paragraph 6 of the Appendix to the Recommendation,** however, we have documented **inconsistent legal practice in implementing all existing provisions.**

<p align="center">Criminal Code Public Incitement to Violence and Hatred Article 325, Paragraph 1</p>	<p align="center">Anti-Discrimination Act Article 25, Paragraph 1</p>
<p><i>Whoever in print, through radio, television, computer system or network, at a public gathering or in some other way publicly incites to or makes available to the public tracts, pictures or other material instigating violence or hatred directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent, color, gender, sexual orientation, gender identity, disability or any other characteristics shall be punished by imprisonment not exceeding three years.</i></p>	<p><i>Whoever, with the aim to intimidate another person or to create a hostile, degrading or offensive environment on the grounds of a difference in race, ethnic affiliation, color, gender, language, religion, political or other belief, national or social origin, property, trade union membership, social status, marital or family status, age, health condition, disability, genetic origin, gender identity or expression, and sexual orientation, hurts another person’s dignity, shall be charged a fine for misdemeanor amounting from HRK 5,000.00 to HRK 30,000.00.</i></p>

Hate speech against LGBTIQ persons is present in different forms: in the public domain, in the media, in the electronic media, and in the last 10 years on social networks. After 2013, we noted a high increase in hate speech against LGBTIQ persons due to events occurring that increased tensions in the society. The frequency of hate speech was especially high on four occasions: during collection of signatures for a referendum on prohibition of same-sex marriage (May 2013), at the time of the regular parliamentary elections (November-December 2015), on the eve of the 15th Pride March, after the constitution of the right wing Government of the Prime Minister Tihomir Oresković (May-June 2016), and after a homophobic attack on the attendees of LGBTIQ-themed party held at the Club SuperSuper in Zagreb (February 2017).

Measures to raise awareness of public authorities / institutions to refrain from hate speech against LGBT people do exist in a form of Code of Public Servants⁵⁸. According to the Article 6, public servants are obliged to ensure the rights, integrity and dignity of their

⁵⁸ Code of Public Servants (OG 40/2011)

profession without the discrimination, including discrimination based on sexual orientation and “any other ground”. **However, the authorities have taken a limited response in raising public awareness on hate speech against LGBTIQ people.** The Government of Croatia had implemented a No Hate Speech Movement campaign to tackle online hate speech in 2014. This only marginally applied to LGBTIQ persons since primary school pupils were campaign designers and therefore only one group of pupils tackled anti-LGBTIQ speech in one video message that was broadcasted on the public TV and social media. No other large-scale awareness campaigns were implemented after 2014. Hate speech is particularly present and pervasive by some members of the Croatian Parliament and especially at sports events. **For hate speech at sports events please see the Chapter 2.9. – Sports.**

Example of hate-speech in Croatian Parliament:

“We live in some form of Yugo-caliphate. The successors of the former system have found the new ideology – the gender ideology. They have substituted Marxism, Titoism and the anarchy of the self-management for gender ideology. So now you have gender neutral toilets? What are those? One for men trapped in a female body, one for women trapped in a male body and so on. I would say that we don’t need other countries to dictate us to legalize pedophilia, zoophilia...In fact, you have a pedophile political party in the Netherlands. In some countries zoophilia and coprophagia are legal. In some countries the biggest awards are given to the abortionists. abortionists who have aborted tens of thousands of children. No, we don’t need those kinds of role models. We need to create our own destiny and look up to the countries where are not the slaves of the European Union and global order or mister Soros and his buddies here in Croatia”

Željko Glasnović, Member of Croatian Parliament, debating Convention on Preventing and Combating Violence against Women and Domestic Violence, March 12, 2018.

Trainings and other awareness raising activities to promote tolerance towards LGBT persons have been provided only to the police officers in Zagreb, Rijeka and Split and the Police Academy cadets as a part of a general training on combating hate crimes against LGBT people. Public prosecutors, judges and court mediators participated in similar trainings voluntarily, as they could apply to a call sent out by Judiciary Academy. The trainings were focused mostly on violence and hate crimes against LGBT persons in Croatia but their goal was, in addition to gaining skills to combat crimes, to promote tolerance and acceptance towards LGBTIQ persons. **(For more, please see Chapter 2.1.A – “Hate Crimes”).** We have no indications that any similar trainings to promote tolerance towards LGBTIQ persons were organized for other state representatives and officials.

2.1.B.1. Hate speech – case studies

In the period after May 2013, when collection of signatures began for a referendum on the prohibition of same-sex marriage, until the end of 2017, Zagreb Pride filed a total of 51 hate speech reports with the police or State Attorney’s Office; 32 criminal reports and 17 misdemeanor reports for discrimination based on sexual orientation in accordance with Article 25 of the Anti-Discrimination Act (Table 3). Out of these, only three proceedings resulted in a convicting final judgement - two criminal and one misdemeanor. In four cases, due to the fact that perpetrators were minors, the court informed the competent social welfare center and a disciplinary measure was enforced. Some of the minors apologized in writing to Zagreb Pride or their parents did on their behalf. All other reports were either dismissed or investigative actions are still ongoing.

While the provision relating to hate speech in the Criminal Code (public incitement to violence and hatred, Article 325), has been minimally used, and judicial practice has been inconsistent, the Anti-Discrimination Act and its provision relating to hate speech (creating a hostile, degrading or offensive environment, Article 25) is practically being ignored. Since 2013, there has been only one final judgement. It relates to the class action against Slobodan Novak, initiated by Zagreb Pride, based on misdemeanor report for discrimination on the grounds of sexual orientation at the Misdemeanor Court in Zagreb because of the text "*When two men or two women babble 'my child' – they hypocritically lie*", published in Večernji list (daily newspapers) in 2013⁵⁹.

Example of hate-speech in media:

"Equalizing all the rights of all needy minorities without any selection would seem to equate the Paralympians with the Olympians, without respecting their handicaps. Let us not forget that the law does not protect persons who commit suicide and their right to "free choice", but, if it can, punishes the attempt itself as well as euthanasia. And if so, then why not sanction a thousand-year-old ethical crime, a notorious lewd act. Is it a greater sin to voluntarily take your own life and your own misfortunes away than to deprive the human community of one or more future people?

<..>

A human in an organized community does not have social rights to activities whose purpose they cannot fulfill. He can try to accomplish them, but not legalize them. Practically, no one can prevent jumping without a parachute. We can be very sorry if we do not have the right to be an astronaut, the best free-diver, a virtuoso on a violin. But we do not have the right to compete even with whistlers through the fingers if we are not good at it; and we can endlessly blow in the fist... We will not for that reason, with those who share our destiny, embark on the city parade and jump in thin jerseys, shaking their useless unwomanly breasts, whistle, play cymbals, drums and tambourines, ... write out our deficiencies on signs, boards and flags in rainbow colors ... then these exhibitions and seeming bitterness, the desire for promotion and publicity, paradoxically and comically call the Pride Parade. There is a saying among our conservative people: What the normal is ashamed of ... the others are proud of".

Slobodan Novak in Večernji list, article: "When two men or two women babble 'my child' – they hypocritically lie", published on November 11, 2013

In the period since January 1, 2014 until December 31, 2017, none of the 12 misdemeanor reports have been initiated for discrimination on the basis of sexual orientation, i.e. for the misdemeanor of creating a hostile, degrading or offensive environment.

In regards to criminal reports for hate speech, the police failed to find the perpetrators in most cases, as many as 21 out of 33 (Table 3). On October 1, 2015, the State Attorney's Office

⁵⁹ The article titled "The Essay on Homosexuality: When two men or two women babble "my child"- they hypocritically lie" was published on November 11, 2013. In the text, the academic Slobodan Novak (1924 - 2016) commented on the referendum on the prohibition of same-sex marriage and called for recriminalization of homosexuality, and also called lesbians and women who do not have children "*unwomen*". This is the only final judgement for discrimination with the aim of creating a hostile, degrading or offensive environment, ruled in October 2015, two years after the text was written. The perpetrator was sentenced to a symbolic sentence of 2/3 of the amount of 1000 HRK, although the minimum penalty of 5000 HRK is proscribed by the Anti-Discrimination Act for the creation of a hostile, degrading or offensive environment. The publisher who published this text, Večernji list, still has the text posted on their website. <https://www.vecernji.hr/vijesti/nisu-svi-u-stanju-ispuniti-svoju-svrhu-902314>

initially dismissed our report with an outrageous explanation that the perpetrator, when writing on the social network a neo-Nazi slogan of *"faggots into camps"*, was allegedly *"under the influence of mass psychology"*. Only after our public reaction in the media, there was a reopening of the investigative procedure (November 2015). However, nothing has happened since then. Out of all criminal reports filed after 2014, only one resulted in a convicting final judgement. This judgement is based on a criminal report filed by Zagreb Pride in the first half of 2017 due to hate speech on social networks after the tear gas was thrown during LGBTIQ party at the Club SuperSuper in Zagreb. The judgement of the Municipal Court in Split⁶⁰, found A.M.Z guilty for the criminal offense of public incitement to violence and hatred (Article 325, Paragraph 1 of the Criminal Code), and punished him with a suspended sentence of three months of imprisonment. At the beginning of 2017, A.M.Z. on the Facebook page of anchor of RTL Direct, Zoran Šprajc, among other things, wrote: *"You who threw the tear gas. Why? Why? Why? Why did you not go inside and used baseball sticks and beat them up so they do not think of it again. Animals are animals and they are not homosexual. You fucking faggots"*.

Table 3. Overview of criminal and antidiscrimination cases related to „hate speech“, January 2018 (total)			
<i>Period (years)</i>	<i>Total number of recorded criminal offenses of hate speech</i>	<i>Total number of recorded cases of misdemeanors for discrimination based on SOGI</i>	<i>Total number of recorded hate speech cases</i>
2010 – 2013	1	5	6
2014 – 2017	33	12	45
TOTAL			51

Following is a selection from the numerous online hate speech incidents recorded in comments on pages administered by Zagreb Pride or on other accounts under shared articles where the key word "Zagreb Pride" is mentioned.

- 2013: Kill and slaughter the faggot, so he is no more! Oi Hitler, rise up (from the dead) for just 5 minutes and take care of this burning issue with fags on this Earth! Just don't touch the niggers, we will put them on the tree and feed them bananas.
- 2014: Whoever wants these faggots to show up in a town, whether Osijek, Rijeka or Pula, they should be ashamed of themselves. I'm from Pula, and I'd simply gather my friends to beat them up. Males or females, doesn't matter. That's what I have to say. Kill the faggot!
- 2015: You should fuck yourself behind the four walls. That is what the normal people do. And your travesty in the streets is making life difficult for all normal homosexual people. They should be punished, they should not just be prohibited (to march)!
- 2015: Kill the faggot
- 2015: Fuck your sick mother
- 2015: Fuck all of you stinky, sick faggots! You should all be killed! Your human scum!
- 2016: To strictly prohibit the faggotry.
- 2016: Let's throw brick at them!

⁶⁰ Judgment of the Municipal Court in Split, pb. 15 K-682/17-2 from November 16, 2017.

- 2016: Just throw these fagots to Sava River. Whoever swims across, cut off their balls!
- 2016: Teargas is nothing unless they are not beaten with the bat or brass knuckles. Let them whine after that! Fuck all of them, including this bitch who defends them! And all people who support them! You are all gonna have a party at the Mirogoj Cemetery, you pigs!
- 2017: You should all be burned to death, you cunts! See you at the next Pride! There is a Molotov cocktail and a tomb waiting for you!

Considering that there is no state body that monitors *misdemeanor hate speech* on anti-discrimination basis (Article 25, Anti-Discrimination Act), we are not able to compare data from our records with other data. The State Attorney's Office of the Republic of Croatia (DORH) records only total numbers of criminal offenses of public incitement to violence and hatred, which are not classified by grounds. In the period from the beginning of 2013 to the end of 2016, DORH recorded as many as 110 criminal reports, and there is an evident rise in criminal reports for "hate speech", namely the criminal offense of public incitement to violence and hatred (Table 4). Data also reveals that nearly half of the reports were dismissed (59 of them), and only 37 indictments were issued. Such a trend of a large number of dismissals is also comparable with the Zagreb Pride evidence of cases of hate speech against LGBT persons (Table 3).

Table 4. Overview of criminal reports for public incitement to violence and hatred („hate speech“) on all grounds, State Attorney's Office, January 2018			
<i>Year</i>	<i>Total</i>	<i>Dismissal</i>	<i>Indictment issued</i>
2013	13	4	9
2014	17	6	9
2015	36	23	5
2016	44	26	14
TOTAL	110	59	37

Zagreb Pride has found that in practice the State Attorney's Office dismisses criminal reports for hate speech (committing a criminal offense of public incitement to violence and hatred) with outrageous explanations that lead to the creation of practice in which hate speech in the Republic of Croatia cannot be criminally penalized. This is also confirmed by the dismissal of the most problematic of four cases in the group of criminal reports filed in 2014 and 2015. The first dismissal related to the criminal report⁶¹ against a perpetrator who wrote on Facebook's Pride Facebook page a well-known neo-Nazi slogan "*faggots into camps*". The Court ruled that there was no criminal offense because the perpetrator was under the "*affective state and psychology of the mass*", then the fact that "*the whole text was not aimed at incitement to violence and hatred*" but only "*one part of it*". In the second case, the dismissal of the criminal report⁶², against the perpetrator who in the commentary on the article on the social network Facebook, among other things, wrote "*You should all be killed. You will not just walk around Zagreb like that. Kill, slaughter so that the faggot does not exist*", provides explanation that this act "*by nature and intensity does not constitute a public incitement to violence and hatred*" because, among other things, "*the comment was published only once*". The third dismissal of the report⁶³, which was initiated against more legal persons responsible for publishing an article on right-wing portal Dnevno.hr that reiterated the thesis that "*homosexuals are concealed*

⁶¹ Decision of Zagreb Municipal State Attorney's Office, no. K-DO-2212/2015 from August 31, 2015.

⁶² Decision of Zagreb Municipal State Attorney's Office, no. K-DO-2213/2015 from September 18, 2015.

⁶³ Decision of Split Municipal State Attorney's Office, no. K-DO-1372/2016 from July 13, 2016.

pedophiles” and “*our (politicians) deny it, 75% of them are concealed pedophiles*” who “*walk freely around Croatia*”, states that the article “*does not disturb the balance between right to expression and prohibition of discrimination*”, and consequently, that the criminal offense had not been committed. The fourth dismissal of the report⁶⁴, which was initiated against more natural and legal persons who wrote in the public statement, among other things, that Croatian Parliament should publish “*the registry ... of homosexuals and other pests*”, declares that this statement has not been expressed solely with “*the aim of incitement of violence and hatred*”, and that perpetrators did not have “*a feeling of extreme disgust towards persons of homosexual orientation*”, which was allegedly concluded during investigative inquiry.

We believe that such explanations are completely unfounded and create a dangerous precedent for the future lack of application of this criminal provision as well as for the tolerance of hate speech, which is an increasing problem in the Croatian society.

In conclusion, although there is no special law on "hate speech" nor is this term defined by the law, Zagreb Pride holds a position that the two existing legal provisions should be consistently applied: the criminal offense of public incitement to violence and hatred (Criminal Code, Article 325) and the provision pertaining to the misdemeanor for the creation of a hostile, degrading and offensive environment (Anti-Discrimination Act, Article 25). This is important in order for legal provisions to have a deterrent effect and to reduce the possibility of creating additional legal confusion through adoption of a new regulation related to "hate speech". It is to be decided through consistent practice by judicial bodies and the police which forms of hate speech fall under criminal offenses and which ones fall under the misdemeanor act of discrimination by creating a hostile, degrading and offensive environment.

Furthermore, the criteria for prosecution of hate speech are completely vague, as similar hate speech of one perpetrator gets prosecuted while of another perpetrator gets justified and criminal report dismissed. In this way, a message is sent to perpetrators of such criminal offenses that hate speech is acceptable, which does an irreparable damage to the overall prevention of criminal offenses, while victims of such offences remain unprotected.

Considering that criminal offenses that constitute hate speech often occur over the internet, especially social networks, in practice, it is extremely difficult to find perpetrators when they hide their identity. Even in cases where the police finds a person whose name, surname and appearance correspond to the profile of the user from which a comment that constitutes hate speech was sent, proceedings against such persons are not continued because, in the opinion of the State Attorney's Office, it is not established beyond doubt that the user of this profile is the one who committed the offense due to the common allegation of suspects that another person had used their profile.

⁶⁴ Decision of Zagreb Municipal State Attorney's Office, no. K-DO-15/2018 from June 11, 2018.

2.2. Freedom of association

LGBTIQ human rights organizations can officially obtain registration. There are no discriminatory administrative procedures nor enforced restrictions for obtaining the official registration. LGBTIQ human rights organizations can work freely with other human rights institutions, media and other human rights organizations, take part in conferences, training sessions or organizes such events.

Freedom of association of citizens in organizations, groups and initiatives working on the rights of LGBTIQ persons in the Republic of Croatia has been exercised freely with a large number of new LGBTIQ organizations and initiatives established since 2014. The most important reason for this is certainly the increase in the attacks on the rights of LGBTIQ persons after the referendum initiative for the constitutional ban of same-sex marriage in 2013 as well as the adoption of the Life Partnership Act in 2014. Both events had a strong mobilization impact on a large number of LGBTIQ persons who became publicly and politically active. In the reporting period, there were at least 13 LGBTIQ organizations registered in the Register of Associations in Croatia, four of which were founded after January 1, 2014. In addition to these, five more LGBTIQ associations were registered, which are either inactive or are not active within the LGBTIQ movement but are conducting economic activity in accordance with the Associations Act⁶⁵. Besides these, there were at least five other associations, which independently or in cooperation with other organizations worked on promotion, protection or raising awareness about the rights of LGBTIQ persons. There are numerous LGBTIQ initiatives and *ad hoc* initiatives, and some of them register as associations in the Register of Associations. Establishment of associations for the rights of LGBTIQ persons is voluntary, free and unhindered, and the Associations Act prescribes appropriate conditions for establishing an association. In the reporting period, we did not record any administrative or political obstacles and obstructions in regards to the establishment of the LGBTIQ organization and initiatives.

LGBTIQ organizations have been involved or consulted when policies that concern or affect LGBTI persons are being adopted or implemented. The National Gender Equality Policy for 2011 - 2015 includes measures that prescribe involvement or consultation of LGBTIQ organizations in drafting public policies that affect LGBT persons. On four occasions, representatives of LGBTIQ organizations have been appointed to governmental bodies / ministries working groups for drafting policies: 1) Life Partnership Bill Working Group 2) State's Registry and Personal Name Bill Working Group 3) Working Group for the Proposal of the Ordinance on the Methods of Collecting Medical Documents for Establishing the Conditions and Provisions for the Change of Sex or Life in a Different Gender Identity 4) Working Group for the Proposal of the National Gender Equality Policy for 2016 – 2021 (has not been adopted yet). In addition, LGBTIQ organizations have also been consulted when drafting and/or proposing measures for the National Human Rights Policy for the period 2017 – 2022. LGBTIQ human rights organizations are successfully cooperating and working with the national human rights structures, particularly Ombudsperson for Gender Equality, and the Government's Offices for Gender Equality and Human Rights. These bodies invite representatives of LGBTIQ organizations to their training sessions, conferences and other public events. In addition, the public work and projects promoting LGBT human rights have been regularly reported in the media. Lastly, LGBTIQ organizations have been successful in working closely with other human rights organizations, particularly pertaining to women's rights and gender equality. LGBTIQ

⁶⁵ Associations Act (OG 74/14, 70/17)

human rights organizations are also members of the most prominent national human rights coalitions and associations.

Public funding is available for LGBTIQ organizations, but since 2016, the access to funding for LGBTIQ organizations, including Zagreb Pride, has been decreased and limitations were put in place, especially through expression of negative opinions about public funding of LGBTIQ organizations by the politicians and ultra-conservative organizations. For example, in 2016, the Deputy Speaker of Croatian Parliament, Ivan Tepeš called for outlawing Life Partnership Act and questioned why Pride March should exist, because *“the homosexuals are not endangered”*⁶⁶. Furthermore, another member of the Croatian Parliament, Ladislav Ilčić, who was also a coalition partner to the ruling party, advocated for total ban of public funding to “leftist organizations” and “Platform 112” – a human-rights watchdog coalition which includes Zagreb Pride, by making a significant cut to the budget of the National Foundation for Civil Society Development⁶⁷. The National Foundation for Civil Society Development is the main access to public funding for non-profit/non-governmental civil society organizations. In addition, some state and public bodies, such as Ministries as well as local government authorities, have been giving funds to LGBTIQ organizations thought calls for tenders, but these funds have been much smaller and project-based.

Since Croatia joined the European Union in 2012, LGBTIQ organizations have been given the opportunity to apply for tenders from the European Social Fund⁶⁸. In addition to the existing sources of funding, public and private foundations in Croatia, the EU and third countries, civil society organizations are being particularly encouraged to develop self-funding activities, and in recent years, philanthropy through individual donations and crowdfunding⁶⁹. However, after the parliamentary elections in 2015, political decisions of the Government of Croatia led to a process that places financial strains on the organizations that act critically in the Croatian society in multiple ways. This process hinders access to public sources of funding for organizations dealing with human rights protection and democratization, including the rights of LGBTIQ persons and reproductive rights of women. Consequences of this process put restrictions on organizations working in independent culture, organizations that deal with the protection of the rights of persons with disabilities, and various social activities, since such organizations receive the crucial amount of their funds through public sources of funding.

During 2016, the main pillars of institutional support to civil society have been significantly altered: 1.) The Government’s Decree on the allocation⁷⁰ of income from the lottery has

⁶⁶ IN CROATIAN: Provest ćemo lustraciju. Idemo u lov na zločince iz komunističkog režima
<https://www.jutarnji.hr/globus/ivan-tepes-provest-ceso-lustraciju.-idemo-u-lov-na-zlocince-iz-komunistickog-rezima/104269/>

⁶⁷ IN CROATIAN: Zašto su ljevičarske udruge dobivale toliko novca, a ne oni kojima treba?
<https://direktno.hr/direkt/zasto-su-ljevicarske-udruge-dobivale-toliko-novca-a-ne-oni-kojima-treba-44161/>

⁶⁸ **The European Social Fund (ESF)** is the main instrument of the European Union aimed at encouraging entrepreneurship through investment in human resources. The European Social Fund annually allocates 10 billion euros to improve prospects for millions of EU citizens to find jobs, especially those workers who face barriers in employment. See More: <http://ec.europa.eu/esf/home.jsp?langId=en>

⁶⁹ **Crowdfunding**, financing through crowds: means of securing financial resources for projects or initiatives, consists of public presentation, most often in the initial or design stage, where citizens invest money through special online donation platforms or direct donations to giro account. The stage of fundraising consists of the direct public communication between the project implementer and many people who usually donate small or medium amounts for the project.

⁷⁰ Full name in English: Regulation on criteria for determining beneficiaries and method of allocation of revenue from games of chance

reduced the budget of the National Foundation for Civil Society Development by 30%⁷¹. In comparison, in 2015 the share of the total lottery income for the civil society development was 14,21%⁷². The Cabinet of Tihomir Orešković reduced this share to only 6.88%⁷³. The share was eventually increased by the Cabinet of Andrej Planović to 11.18%⁷⁴ which is still considerably lower than in 2015; 2.) The influence of the Council for Civil Society Development has been marginalized since the Council opposed the budget cuts for financing civil society development, which the Government did not take into consideration; 3.) Due to the marginalization of the Council and the reduction of funds for associations, the Director of the Office for Cooperation with NGOs of the Government of the Republic of Croatia, Igor Vidačak, has resigned; 4.) Financing of non-profit media through the Public Call for Proposals for Non-Profit Media of the Ministry of Culture was canceled; 5.) All councils at the Ministry of Culture authorized for the evaluation of the projects of public interest in culture have been dismissed, and new ones were formed with members who have political and other ties to the Minister; 6.) All advisory, ministerial and deputy ministerial positions in the Government of the Republic of Croatia have been filled with persons who have a long-term record of working against the equality of LGBTIQ persons. All this suggests that, since the elections in 2015, political pressure has been exerted on the work of civil society organizations, including LGBTIQ organizations and non-profit media organizations

LGBTIQ human rights defenders are not protected by any special measures and in practice, when the human right defenders are victims of violence and discrimination, only general legislation applies as well as hate crime legislation in relations to SOGI. No specific measures for the general protection of human rights defenders have been recognized by any public policy. The hostility and aggression towards LGBTIQ human rights defenders can be treated as a hate crime on basis of sex, sexual orientation or gender identity. LGBTIQ human rights defenders have been targeted in the past more, and the most recent attack was documented in 2014, on organizers of Split Pride after attending the Pride March in Split⁷⁵⁷⁶.

In conclusion, even though LGBTIQ organizations can freely obtain the registration and work freely to promote the rights of LGBTIQ persons, since 2016 some restrictions were made in regards the access to public finding. In addition, the negative attitude towards the public funding of LGBTIQ and gender equality organizations has been promoted by some politicians which is described in more details the **Chapter 2.1.B – Hate Speech**. LGBTIQ organizations have been consulted when some LGBT-policies had been introduced prior to 2016, however, since 2016, LGBTIQ organizations only participated in public online consultations for policies that were being proposed and were not invited to be a part of the government's working groups.

⁷¹ GONG: Croatian Government's Triple Attack on Autonomous Media, Civil Society and Culture: <http://civic-forum.eu/civic-space/croatian-governments-triple-attack-on-autonomous-media-civil-society-and-culture>

⁷² IN CROATIAN: Uredba Vlade RH o kriterijima za utvrđivanje korisnika i načinu raspodjele dijela prihoda od igara na sreću za 2015. godinu: https://narodne-novine.nn.hr/clanci/sluzbeni/2015_02_17_321.html

⁷³ IN CROATIAN: Uredba Vlade RH o kriterijima za utvrđivanje korisnika i načinu raspodjele dijela prihoda od igara na sreću za 2016. godinu: https://narodne-novine.nn.hr/clanci/sluzbeni/2016_04_38_1013.html

⁷⁴ IN CROATIAN: Uredba Vlade RH o kriterijima za utvrđivanje korisnika i načinu raspodjele dijela prihoda od igara na sreću za 2017. godinu: https://narodne-novine.nn.hr/clanci/sluzbeni/2017_02_17_395.html:

⁷⁵ IN CROATIAN: 'Napali voditelja Split Pridea: Vikali su da će me ubiti', Slavica Vuković, Večernji list, 14. lipnja 2014.: <https://www.vecernji.hr/vijesti/napali-voditelja-split-pridea-vikali-su-da-ce-me-ubiti-569307>

⁷⁶ IN CROATIAN: 'Pretučena dvojica LGBT aktivista, organizatori Split Pridea', Slavica Vuković, Večernji list, 23. lipnja 2014.: <https://www.vecernji.hr/vijesti/dvojicu-aktivista-rispeta-lgbt-udruge-split-napala-grupa-muskaraca-946406>

2.3. Freedom of expression and peaceful assembly

There have been no limitations by the public and/or state authorities related to receiving and disseminating information on subjects dealing with sexual orientation and gender identity. No policy or measures restrict this freedom. In practice, it is almost exclusively LGBTIQ human rights organizations that provide information on sexual orientation and gender identity through public campaigns, projects and by publishing and dissemination of materials in partnerships with public or state bodies. Most of these activities have been funded by EU grants and are co-financed by the Croatian Government.

There are no legal restrictions nor discrimination on grounds of sexual orientation and gender identity related to the access to freedom of assembling and peaceful protesting.

The right to public assembly and peaceful protest is guaranteed to everyone by the Constitution of the Republic of Croatia (Article 42). All forms of peaceful public assembly, from protests, events to sports, humanitarian, religious, entertainment and economic events are regulated by the Public Assembly Act⁷⁷. Any organized gathering of more than twenty people in a public place is considered a public assembly. The organizer, which may be a legal or natural person, is obliged to report the public assembly to the police within five days and in exceptional cases within 48 hours. Since the public assembly is a constitutional right, the Ministry of the Interior does not issue a public assembly permit, therefore, the report of the assembly is sufficient. A public assembly may be banned only by the Minister of the Interior and the ban must be based on the Law (Article 14 of the Public Assembly Act).

There are no special measures in place to prevent the abuse of legal or administrative provisions on grounds of public health, public morality or public order resulting in restrictions on the effective enjoyment of the rights to freedom of expression and peaceful assembly by LGBTI persons or human rights organizations, however, since 2002 we found no examples that any public authority has ever abused existing legal provisions or in fact, banned any public assembly of LGBTI persons.

Since 2011, violent attacks or counter-demonstrations against public protests/gatherings of LGBT persons, including the Pride Marchers, have not occurred. **Law enforcement officers, namely the police, have been trained on several occasions by LGBTIQ organizations in an attempt to protect the rights of LGBT persons to freedom of expression and public assembling: in 2011, in 2013 and in 2016.** Unlike in the previous report submitted to the Council of Europe, since 2013, we have not documented any specific unacceptable comments by authorities, including local authorities, against exercise of freedom of expression and peaceful assembly. **Pride Marches of LGBTIQ persons have been held continuously in Zagreb and Split, and in the period from 2014 to 2017 there were no counter protests nor violent attempts to prevent or attack LGBTIQ persons immediately before or after the assembly. In 2014, the Pride March was also held in Osijek.** Despite the absence of violence during Pride Marches since 2011, hate crimes against LGBTIQ persons during "the Pride season"⁷⁸ were recorded between 2014 and 2017 both in Split⁷⁹ and in Zagreb⁸¹. In the month

⁷⁷ Public Assembly Act (OG 128/1999, 90/2005, 139/2005, 150/2005, 82/2011, 78/2012)

⁷⁸ During May and June.

⁷⁹ IN CROATIAN: 'Napali voditeljja Split Pridea: Vikali su da će me ubiti', Slavica Vuković, Večernji list, 14. lipnja 2014.: <https://www.vecernji.hr/vijesti/napali-voditeljja-split-pridea-vikali-su-da-ce-me-ubiti-569307>

⁸⁰ 'IN CROATIAN: Pretučena dvojica LGBT aktivista, organizatori Split Pridea', Slavica Vuković, Večernji list, 23. lipnja 2014.: <https://www.vecernji.hr/vijesti/dvojicu-aktivista-rispeta-lgbt-udruge-split-napala-grupa-muskaraca-946406>

preceding the Pride March in 2016, Zagreb Pride recorded three hate crimes in public, in the area of the center of Zagreb. Furthermore, seven days before the Pride March, Zagreb Pride's flag, which flew on the Ban Jelačić Square in Zagreb was burnt⁸², and three rainbow flags were taken down and stolen from the King Tomislav Square.

Although there has been no violent attempt to prevent the right to public assembly by citizens since 2011, most citizens still hold negative attitudes towards the public assemblies of LGBTIQ persons. According to a research by Ipsos Agency for Zagreb Pride conducted in 2016 on a representative national sample, as many as 57% of the respondents said they did not support the Pride March⁸³.

Apart from the Pride March, other public gatherings of LGBTIQ persons are also being held. In Zagreb, Rijeka and Poreč, three LGBTIQ events are held regularly. Festivals and other cultural events take place in Zagreb since 2003. Since 2016, Homo, feast! - LGBT culture festival is organized in Poreč. The third event, Smoqua, is the festival of queer and feminist culture that has been held in Rijeka since 2017.

National Gender Equality Policy contains two measures that address freedom to receive public information on subjects dealing with sexual orientation and gender identity, however these measures address only sexual orientation and gender identity in the context of a need to raise awareness on violence against LGBT people. National Human Rights Policy addresses measures on providing information on sexual orientation and gender identity in public schools through health education, but the implementation of this measure has been very limited and to the most degree, it has been implemented in a discriminatory manner, thereby marginalizing LGBTIQ persons even further. For more **please see the Chapter 2.6. - Education.**

Despite the seemingly unobstructed public and political action of LGBTIQ persons, since 2013, we have noted several examples of attempts to restrict the rights of freedom of expression and public assembling. For example, the freedom of expression of LGBTIQ persons has been seriously limited by the decision of the County Court in Osijek in 2015 in a case against Zagreb Pride as well as other legal action with a sole purpose to intimidate and silence LGBTIQ people, LGBTIQ media and LGBTIQ organizations.

Case of Karolina Vidović Krišto against Zagreb Pride, July 2014

Zagreb Pride has noted the worrying trend of intimidation through lawsuits and the systematic depleting of funds of legal and natural persons who act publicly and critically in defense of human and minority rights. Such depletion of funds through lawsuits is manifested through the initiation of lawsuits for compensation for non-pecuniary damages due to spoken or written words about public figures associated with the Catholic Church and clerical-right parties and movements, which have been, especially since 2013, actively working on limiting

⁸¹ Please see the Chapter 2.1.A.5. Hate Crimes – case studies

⁸² "Thousands-Take Part in Zagreb Pride", Vedran Pavlic, Total Croatia News, June 11, 2016: <https://www.total-croatia-news.com/item/12387-thousands-take-part-in-zagreb-pride>

⁸³ The research is available upon request from Zagreb Pride. The question stated: "A public assembly will be organized in Zagreb at the beginning of June, the 15th Pride March of homosexual persons. The purpose of the March is to point out to the existence of homosexual, bisexual and transgender persons in the Croatian society and demand the respect for the fundamental human rights of those persons. To what extent do you personally support or not support the Pride March?"

human rights of LGBTIQ persons and reproductive rights of women.

An example of this is also the lawsuit against Zagreb Pride. Namely, from 2011 to 2015, and prior to every Pride March, Zagreb Pride had been organizing an election for the title of "Homophobe" and "Homofriend". These titles were awarded to public persons who have been particularly prominent in the promotion of rights of LGBTIQ persons ("Homofriend") or who have been strengthening prejudices, stereotypes, discrimination and hatred against LGBTIQ persons ("Homophobe"). Zagreb Pride would choose a couple of candidates for whom the public would vote through online polls. Each nominee for one of the awards was presented through a short text explaining the nomination. In 2013, the editor at the Croatian Radio-Television (CRT), Karolina Vidović Krišto was one of the nominees due to a show where she presented a series of pseudo-scientific theses about the relationship between homosexuality and pedophilia, including the TV feature titled "Pedophilia as a base for sex education?"⁸⁴.

"This former editor of the show "Croatia's Image" at CRT was involved in a hysterical anti-homosexual campaign by airing on the national TV station a propaganda feature "Pedophilia as the foundation of sexual education?" It has been shown that this is indeed a propaganda and biased show that has nothing to do with journalism but is being abused for radical activism. Of course, parts of this feature contained footage from the film for which CRT did not have secured copyrights. And we all know how it goes - whoever steals, probably also lies."

Description of the candidacy of Karoline Vidović Krišto for title of "Homophobe 2013", Zagreb Pride, June 2013

After the announcement of the nomination on the website of Zagreb Pride, Karolina Vidović Krišto, the editor at the CRT, the public institution for informing, filed a lawsuit against Zagreb Pride on July 8, 2014 seeking compensation of HRK 50,000 plus litigation and court costs for the violation of her reputation, dignity and honor. The judgment of the first instance Municipal Civil Court of Zagreb from October 23, 2014, ordered Zagreb Pride to pay 30,000 HRK for non-pecuniary damages due to the violation of reputation, dignity and honor. The County Court of Osijek confirmed on May 21, 2015 the Municipal Court's judgment from October 23, 2014 and ordered Zagreb Pride to pay a total of 41.018,91 HRK (5.548,20 EUR), which, in addition to HRK 30.000,00 (4.058,00 EUR), for damages, included default interest and attorneys' fees.

Zagreb Pride reacted to this judgement publicly, stating that it represents the attack of the judicial authorities on the freedom of speech in Croatia, as it seeks to prevent the work of Zagreb Pride and censor its voice in the struggle for human rights of LGBTIQ persons⁸⁵. This judgement represents an organized attack on the constitutional right to freedom of speech and expression of opinions of all persons in the Republic of Croatia. We have emphasized that the sole purpose of this and similar lawsuits is to create a sense of fear of persecution and impose self-censorship – primarily among organizations for the promotion of human rights and non-profit media.

⁸⁴ Aired in December 2012, IN CROATIAN: *HRT Slika Hrvatske - Pedofilija kao temelj spolnog odgoja?*: <https://www.youtube.com/watch?v=TlaCwh2Xtc0>

⁸⁵ Backlash against Freedom of Speech: Attack on Zagreb Pride: <http://www.zagreb-pride.net/en/backlash-on-the-freedom-of-speech-attack-on-zagreb-pride/>

During thirty days of public campaign in July 2014, we raised 40,000 HRK (5.410,00 EUR) to cover costs of the verdict. Zagreb Pride continued with further legal actions with the aim of defending the freedom of public expression of opinions before the Constitutional Court. At the same time, the costs set by the judgment were paid in order to avoid further interest growth.

Zagreb Pride filed for the revision of the judgment of the Osijek County Court on 10 July, 2015 at the Supreme Court of the Republic of Croatia. The revision was requested due to the unequal court practice concerning the right to public expression of opinions and the restriction of that right in relation to the violation of the dignity and honor of the person about whom the opinion is given. In addition to the revision, on August 4, 2015, Zagreb Pride filed a complaint at the Constitutional Court of the Republic of Croatia for violation of the right to freedom of thought and expression of opinion and freedom of speech (Article 38 of the Constitution of the Republic of Croatia and Article 10 of the European Convention for the Protection of Fundamental Rights and Freedoms), violation of the right to equality before the law (Article 14, Paragraph 2 of the Constitution of the Republic of Croatia), and violation of the constitutionality principle and the direct applicability of the fundamental rights enshrined in the Constitution (Article 5 of the Constitution of the Republic of Croatia). The Supreme Court has suspended the revision procedure in 2015 until the final decision of the Constitutional Court. The Constitutional Court has not yet passed its judgement.

Zagreb Pride is not the only association that is exposed to lawsuits from public persons associated with the Catholic Church and clerical-right political parties and movements, who seek extremely high amounts of compensation in court proceedings for the violation of the reputation and honor of an individual plaintiff. A similar lawsuit was filed against the association Common Zone, due to the text published on their portal Voxfeminae.net website, regarding a final judgement for the violence in family perpetrated by a journalist close to the Catholic Church. In this case, the lawsuit was fortunately dismissed. At the same time, a criminal report was filed against the Crol.hr association, as well as against journalist of association CESI's portal Libela.org. However, in these proceedings, the complaints and lawsuits have been dismissed as unfounded.

Furthermore, in 2017, we have also experienced restrictions to the right of freedom of public assembling based on an unlawful administrative decision by the Zagreb County Police Department. Zagreb Pride has therefore filed a complaint to the Police Directorate General for unlawful obstruction of the right to public assembly. The Police Directorate General accepted the claim and annulled the Zagreb County Police Department's decision in the second instance administrative procedure.

Case of Zagreb Pride against Zagreb County Police, June 2017

Throughout 2017, attempts were made to restrict the right to freedom of public assembly, including 2017 Zagreb Pride March. The Pride March was nevertheless held on June 10, 2017, as planned. When deciding on issuing approval on behalf of the Ministry of Interior on traffic regulation in the center of Zagreb for the purpose of holding a protest assembly, the Zagreb County Police Department misapplied the provisions of the Public Assembly Act, more specifically Articles 24 to 30, by treating the protest assembly of the Pride March as a "public manifestation", as well as the provisions of Article 183 of the Road Traffic Safety Act⁸⁶ relating to "sports and other street events". Thus, by misinterpreting the law, the police

⁸⁶ Road Traffic Safety Act (OG 67/2008, 48/2010, 74/2011, 80/2013, 158/2013, 92/2014, 64/2015)

transferred their duties to Zagreb Pride as organizer of a public assembly. Transferred duties related to ensuring the smooth realization of a public assembly, including the obligation of Zagreb Pride to conclude contracts with companies controlled by the City of Zagreb, for the purpose of coordination of a number of related tasks. For example, to cover all police expenses through the obligation to conclude a contract on the engagement of police forces and technical equipment as well as the responsibility for "any potential accidents on the route of the March due to non-compliance with the imposed measures and obligations".

Upon the receipt of the decision from June 5, 2017, Zagreb Pride filed a complaint, with the assistance of a lawyer, for the issuance of an unlawful decision, claiming the violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Articles 13 and 14), the Constitution of the Republic of Croatia (Article 14, 15 and 42), and the violation of the General Administrative Procedure Act (Articles 5 and 6). The complaint to the Ministry of the Interior was filed on June 8, two days before the Pride March was to be held. Immediately upon receipt of the complaint, the Zagreb County Police Department issued a law-based decision on the traffic regulation for the purpose of the Pride March on June 9, 2017, while the previous unlawful decision from June 5 was declared invalid in the administrative procedure on July 27, 2017, when the Zagreb County Police Department was ordered to reimburse Zagreb Pride for previously charged fee that was set too high.

Similar police conduct aimed at restriction of the right to public assembly was also recorded in at least two other cases - during the public assembly of the initiative fAKTIV "Night March - March 8", on March 8, 2017, and the assembly of the initiative Croatia Can Do Better and GOOD initiative "Waiting for Tram Called Educational Reform," on June 1, 2017. Such type of conduct by the Zagreb County Police Department is an example of a basic lack of understanding of the constitutional provisions on the freedom of assembly and the right to protest, which the police are obliged to ensure and not restrict.

In conclusion, limitations to freedom of expression and freedom of assembling still exist in Croatia and in last couple of years this has become more evident. While above mentioned limitations to freedom of assembling can be explained by inadequate implementation of the existing legislation and the incompetence of the legal departments within the Zagreb County Police Department, we consider limitations to freedom of expression in Croatia to be a much more worrying trend. Such magnitude of intimidation and threats with lawsuits, filing lawsuits and judgments requiring payment of high amounts for damages and litigation costs as well as initiation of criminal proceedings against certain journalists and activists, and other legal actions, has not occurred for the past ten years⁸⁷. All this points to a completely new methods of pressure on the work of defenders of human rights as well as non-profit media that are expressing criticism about the authorities and the Catholic Church. According to the estimate of the weekly newspaper Novosti⁸⁸, there were at least sixteen lawsuits filed against media and non-governmental associations from 2013 to 2018. Total claims for non-pecuniary damages in these lawsuits are estimated at half million HRK (cca 68.000,00 EUR). In this way, activists, associations and publishers are being systematically and subtly financially destroyed. At the same time, this sends the message to other critical voices that it is not worth speaking freely, since as a result they will be exposed to lawsuits. This has created an environment of censorship and fear, and the right to public and political action is being restricted in a dangerous way.

⁸⁷ Human Rights House Zagreb - Human Rights In Croatia: Overview Of 2017 – please look under Media Freedom #44 - #51: http://www.kucaljudskihprava.hr/wp-content/uploads/2018/04/KLJP_PregledStanja_ENGWeb.pdf

⁸⁸ IN CROATIAN: "Željka i tužbe", Novosti, Ana Brakus, May 27, 2018.: <https://www.portalnovosti.com/zeljka-i-tuzbe>

2.4. Right to respect for private and family life

The legislation **does not criminalize same-sex sexual acts** since 1977⁸⁹. The age of consent was equalized in 1998⁹⁰, and since 2013 it is set at the 15 years of age⁹¹. **There are no criminal provisions which can, based on their wording or scope, be applied in a discriminatory manner regarding sexual orientation and gender identity.**

We are not aware whether police or other authorities create or keep registries on sexual orientation since we have found no indications that such data exists in the last 15 years, and whether, if it ever existed, has been destroyed. Data on gender identity, or more precisely, previous gender marker is indicated in the Basic State Registry (Birth Registry) only. According to State Registry's Act⁹² in Article 43, Paragraph 3, change of gender marker is not expressed in any of the state registries' certificates, such as birth certificate or certificate of marriage/life partnership registration. For more, please see the **Chapter 2.4.2. – Legal recognition of same-sex couples**. The right to the protection of personal data is a constitutional category as well, and the Article 37. Paragraph 1 of the Constitution of the Republic of Croatia guarantees security and confidentiality of personal data to each individual. **There are no specific measures put in place which prohibit collecting and storing data on sexual orientation and gender identity, especially by the police.** Police data collection is regulated by the Police Act⁹³ (Article 35), the Police Actions and Authorities Act⁹⁴ and the Ordinance on Police Procedures⁹⁵. None of these three policies limit data collection pertaining to sexual orientation and gender identity. In addition, Personal Data Protection Act⁹⁶ was enforced until May 2018, after which the General Data Protection Regulation (GDPR) (EU) 2016/679 has been enforced directly. Under the Personal Data Protection Act, protection of personal data was guaranteed to natural persons regardless of several grounds listed. The Act did not explicitly refer to sexual orientation and gender identity, however under the clause "other grounds", this could have been applied.

2.4.1. Legal gender recognition

Legal gender recognition procedures exist to some extent but are **not accessible in quick and transparent manner, and they are not based on self-determination**. Existing legal gender recognition **does not guarantee full legal gender recognition of a person in all areas of life**: implementation of existing policies applies **only to adapting official documents**, but **not** educational or work certificates issued by non-state actors. Comprehensive legal gender recognition legislation that would apply in all areas of life, including work and employment is urgently needed. Gender recognition of trans persons is **not conditioned by having to undergo an operation or a treatment entailing irreversible sterilization**. Hormonal treatment is not conditional, but optional. **However, psychiatric diagnosis and social worker's**

⁸⁹ Dota, Franko. 2017. Javna i politička povijest muške homoseksualnosti u socijalističkoj Hrvatskoj (1945. – 1989.). [Public and Political History of Male Homosexuality in Socialist Croatia, 1945-1989]. Ph.D. Thesis. Zagreb: Filozofski fakultet Sveučilišta u Zagrebu. p. 286–327. / Criminal Code of the Socialist Republic of Croatia (OG 25/1977)

⁹⁰ Ibid p. 308–312. / Criminal Code of the Republic of Croatia (OG 110/1997)

⁹¹ Article 158 of the Criminal Code.

⁹² State Registry's Act (OG 96/1993, 76/2013)

⁹³ Police Act (OG 34/2011, 130/2012, 89/2014, 151/2014, 33/2015, 121/2016)

⁹⁴ Police Actions and Authorities Act (OG 76/2009, 92/2014)

⁹⁵ Ordinance on Police Procedures (OG 89/2010)

⁹⁶ Personal Data Protection Act (OG 103/2003, 118/2006, 41/2008, 130/2011, 106/2012)

statement is required for all applicants for legal gender recognition. Capacity to demonstrate a period of “real life experience” in the self-determined gender **is not legally conditioned, however** in practice, it has been reported that some psychiatrists suggest or condition it to their patients. **We have found no limitations in access to legal gender recognition of trans persons irrespective of age** (applies to minors), **medical status, financial situation and police record. However**, current legislation does not explicitly address prohibition of discrimination based on the mentioned basis so discrimination can occur in practice.

There are no special legal nor other measures in place to protect the right of trans persons to marry. A trans person is allowed to enter a marriage union with a person of the different legal sex/gender or a life partnership with the person of the same legal sex/gender. This is determined according to the legal sex/gender marker on the birth certificate of both persons who wish to marry/register. If the gender marker has already been changed, trans people can enter a marriage union with someone of a different legal sex/gender or life partnership with someone of the same legal sex/gender **Existing legislation does not explicitly require trans persons to divorce/legally separate prior to obtaining the legal gender recognition.** However, since both marriage and life partnership are determined according to the partners’ legal sex/gender, the union could be considered annulled after change of legal sex/gender marker. Therefore, this issue remains unclear since it is unregulated. In addition, we have been provided conflicting legal arguments whether the marriage/life partnership is considered (in)valid after one person legally changes legal sex /gender marker or whether the status “automatically” changes from marriage to life partnership of vice-versa. At this moment, we are aware of only one case where a trans person was in a same-sex life partnership prior to legally changing their legal sex/gender marker, and this person was not required to divorce prior to obtaining the legal recognition of their self-determined gender. However, this person was asked by the state registry official if they wanted to stay in life partnership or change the life partnership to marriage.

2.4.2. Legal recognition of same sex couples

The Life Partnership Act⁹⁷ was adopted by the Croatian Parliament on July 15, 2014. It entered into force on August 5 of the same year, and the first wedding of life partners was held in Zagreb on September 5, 2014. Based on Zagreb Pride’s written request, Ministry of Administration informed us that in the period between September 5, 2014 and December 31, 2017 a total of 238 life partnerships were concluded in the Republic of Croatia. The Ministry of Administration responded to Zagreb Pride’s written inquiry about the number of statements of agreement submitted regarding termination of life partnerships that such statistical data is not being collected, although life partnerships are generally terminated by providing a statement of agreement to the registrar, provided that there is no minor child living in such family.

National legislation recognizes four types of family unions: marriage, common-law marriage (non-marital union), life partnership and informal life partnership (de facto partnership). Croatian legal term of act of registration (in Croatian: “*sklopiti*”) is the same for both marriage and life partnership. **National legislation therefore confers rights and obligations on unmarried couples, both same-sex and different-sex couples.** While life partnership is the same-sex equivalent to the act of marriage of different-sex couples, the informal life partnership is equivalent to common-law marriage of different-sex couples. In terms of rights, privileges and

⁹⁷ Life Partnership Act (OG 92/2014), unofficial translation: <http://www.zivotnpartnerstvo.com/en/same-sex-life-partnership-act/>

obligations, married and unmarried different-sex couples enjoy equal rights, as well as partners and informal life partners. The only major difference between marriage and life partnership is in terms of rights privileges concerning the access to adoption. In contrast to different-sex couples, both married or in common-law marriage union, same sex couples are not provided with the possibility to adopt at this time. This includes both joint adoptions and second parent adoptions, which are both possible for married and unmarried different-sex couples. **Therefore, same-sex couples do not have equal rights to different-sex couples (married and unmarried) in a comparable situation.**

Same-sex couples, in life partnership and in informal life partnership, may obtain a residence permit for family reasons. This has been applied since the enforcement of the Life Partnership Act in August 2014. In addition, the Foreigner's Act⁹⁸ has also been amended on July 5, 2017 in accordance with the verdict of the European Court of Human Rights in the case of Pajić v. Croatia⁹⁹.

The Life Partnership Act contains a provision prohibiting discrimination on the basis of a concluded life partnership, sexual orientation and gender identity. The prohibition of discrimination on the basis of gender identity implies the respect and acceptance of the gender identity of a person who concludes a life partnership, if the sex recorded in the Registry corresponds to the conditions for concluding a life partnership. This also implies using a gender appropriate language when concluding a life partnership in accordance with the grammatical gender that person uses and gender identity that the person identifies with, rather than the sex recorded in the Registry. In practice, registrars do not understand how to apply this right because they are not educated about gender identity and specifics of LGBTIQ experience.

In one case, the transgender person has given up on the requirement that the registrar refers to them by gender they identify with. In another case, a person whose personal name in the Registry corresponded to their gender identity, the registrar used gender neutral language during the ceremony of conclusion of the life partnership.

2.4.3. Institutional and political discrimination of same-sex life partners

With the entry into force of the Family Act on November 1, 2015, married and unmarried different-sex couples became fully equal in their rights and obligations. Equalization of married couples and common-law marriage was achieved through the amendments in the Parliament, since the final Draft Bill of the Family Act drafted by the Government of the Republic of Croatia did not envision equal rights for marriage and common-law marriage, nor the possibility of adoption for common-law married couples.

After the parliamentary elections in November 2015, and the formation of the Government in early 2016, a working group for family law was established at the Ministry of Social Policy and Youth, led by persons who in 2013 advocated for a constitutional ban on same-sex marriage¹⁰⁰. This working group produced the theses¹⁰¹ that proposed to the Ministry the adoption of a completely new Family Act. Zagreb Pride repeatedly warned the public that there is a real

⁹⁸ Foreigner's Act (OG 130/2011, 74/2013, 69/2017, 46/2018)

⁹⁹ Pajić v. Croatia: <http://hudoc.echr.coe.int/eng?i=001-161061>

¹⁰⁰ In CROATIAN: 'Obitelj joj je "cilj i sredstvo", a ideologija nit vodilja', Ekspres, March 7, 2018: <https://www.express.hr/top-news/obitelji-joj-je-cilj-i-sredstvo-a-ideologija-nit-vodilja-15135>

¹⁰¹ In CROATIAN: Nacrt prijedloga iskaza o procjeni učinka propisa za Nacrt prijedloga Obiteljskog zakona: <https://esavjetovanja.gov.hr/ECon/MainScreen?entityId=4049>.

danger that the development of a new Family Act will result in the denial of rights to different-sex common-law married couples¹⁰²¹⁰³, especially in the area of adoption of children, with the aim of eliminating the possibility of extending that right to life partners.

The Draft Bill of the new Family Act is a decisive attack on all families in Croatia, and members of right-wing-clerical voices who have been systematically opposed to human rights in Croatia for the past five years have participated in its writing. The same people who allegedly wanted to protect marriage in 2013 and introduced the definition of marriage in the Constitution through referendum and with the help of the HDZ, now in the new Family Law claim that even a husband and wife without children do not constitute family!

Zagreb Pride therefore firmly says that marriage, common-law marriage, life partnership and informal life partnership represent family life. All of these units are families, as well as single-parent families, families without children, and families of grandparents and grandchildren. The family life of life partners, with or without children, is a fact of our society, and this fact cannot be changed by any laws, referendums or manipulations. The family life of life partners is protected by the Constitution of the Republic of Croatia, the Constitutional Court and the European Convention on Human Rights. This is confirmed by a series of judgments, including the judgment Pajić versus the Republic of Croatia.

Zagreb Pride's Press Release, September 28, 2017

The first draft Bill of the Family Act developed based on the theses of the 2016 working group was published at the end of September 2017 and was withdrawn on the same day due to the great public dissatisfaction¹⁰⁴. The publication of the controversial draft revealed that not only are the existing rights of common-law married couples repealed, which in the opinion of the Ministry and the working group should not be equated with married couples, but that family was defined for the first time in the Croatian legislation. The family was defined as a marital unit of a man and a woman and their children. Particularly evident was the repeal of the right of individuals (in the draft bill - "single") and to common-law married partners to adopt children¹⁰⁵.

In addition, we would also like to emphasize **another discriminatory practice of the Croatian Government**. Since 2015, many law proposals of the special laws and regulations in which family members are listed address married, common-law married couples and their children only, while same-sex life partners, informal life partners and children under partner-guardianship are left out. This is not only important for aligning new laws and regulations with the Life Partnership Act, but also for removing uncertainties about all the legal and other concerns that law enforcement may have. The Life Partnership Act is an organic law and all special laws and regulations must be harmonized with it. The main responsibility for creating legal uncertainties through the adoption of inconsistent regulations lies with the relevant Ministries and the

¹⁰² IN CROATIAN: Reagiranje Zagreb Pridea: Novi prijedlog Nacrta Obiteljskog zakona napada i ugrožava obitelj, Zagreb Pride, September 28, 2017: <http://www.zagreb-pride.net/hr/reagiranje-novi-prijedlog-obiteljskog-zakona-napada-ugrozava-obitelji/>

¹⁰³ IN CROATIAN: Priopćenje Zagreb Pridea: Svaki prijedlog Obiteljskog zakona koji ne sadrži životno partnerstvo u definiciji obitelji je neprihvatljiv, Zagreb Pride, October 11, 2017: <http://www.zagreb-pride.net/hr/priopcenje-svaki-prijedlog-obiteljskog-zakona-koji-ne-sadrzi-zivotno-partnerstvo-u-definiciji-obitelji-je-neprihvatljiv/>

¹⁰⁴ IN CROATIAN: 'Ministarstvo je reteriralo oko Obiteljskog zakona; maknut je s interneta i povučen na doradu', Telegram, September 28, 2017: <https://www.telegram.hr/politika-kriminal/ministarstvo-upravo-reterirali-oko-obiteljskog-zakona-maknut-je-s-interneta/>

¹⁰⁵ IN CROATIAN: Nacr Obiteljskog zakona pun skandaloznih ideja ekspresno povučen: Izazvao je neviđenu buru u javnosti, čak je i Plenković negodovao što je izašao van Jutarnji list, September 28, 2017: <https://www.jutarnji.hr/vijesti/hrvatska/nacr-obiteljskog-zakona-pun-skandaloznih-ideja-ekspresno-povucen-izazvao-je-nevidenu-buru-u-javnosti-cak-je-i-plenkovic-negodovao-sto-je-izasao-van/6594759/>

Government of the Republic of Croatia as the proponent(s) of law as well as with members of expert working groups for drafting laws. **This is especially concerning since after 2016 LGBTIQ organizations have been excluded from the government working groups and ignored during the public consultation processes.** A special omission is also made by the competent committees of the Croatian Parliament, which are obliged to ensure that the adopted laws and regulations are uniform. This is primarily the concern of the Gender Equality Committee and the Family, Youth and Sports Committee. These committees have repeatedly failed to seek an amendment to certain laws that would include explicit mention of life partners and informal life partners as well as children under the partner-guardianship as family members.

2.4.4. Discrimination of informal same-sex life partners – case studies

In 2012, Zagreb Pride recommended to a person to initiate proceedings to establish the joint property from the same sex relationship as defined by the old Same-Sex Unions Act¹⁰⁶, which was in force until the Life Partnership Act entered into force. Despite the testimonies of witnesses, evidence of joint housing and other material evidence, the court dismissed the complaint as invalid since it found that there was no continuity of the same-sex unit for at least three years, since one of the partners temporarily left a common home after a quarrel to which she returned a month later.

In 2016, Zagreb Pride recommended to a person to initiate proceedings to establish ownership of the joint property from an informal life partnership. The procedure is still in progress. The person who requested our assistance claimed that he was discriminated against by a notary public, who excluded him and expelled him from the inheritance proceeding after the death of an informal life partner, despite the fact that the testament listed him as an informal life partner. At the hearing, however, there were only relatives from the second order of succession who disputed the existence of informal life partnership, although there is evidence and witnesses who can testify that the relationship lasted for at least eighteen years.

By analyzing and monitoring these cases, Zagreb Pride estimates that judges at the first instance and/or public notaries are not familiar with the concept of same-sex relationships or informal life partnerships. It is also obvious that the judges and/or notaries lack knowledge about the specificities related to the experiences and ways of constituting a unit of family life by LGBTIQ persons, and the fact that an informal life partnership exists. Although informal life partnership is established in the same way as the common-law marriage, the criteria for identifying informal life partnerships cannot be exactly the same as in the case of different-sex common-law marriages. The experience of same-sex couples in informal life partnerships, especially elderly LGBTIQ persons, and different-sex couples in common-law marriages are not the same. Many life partners are exposed, today and especially in the past, to a homophobic and hostile environment, which has greatly influenced their daily experience and behavior. Therefore, the existence of a formal residence at the same address cannot and should not be the main and the only criterion for determining the existence of an informal partnership. In addition, until 2014, the same-sex partners had no option of formalizing their relationships so many learned and accepted to live in an informal unit whose status they did not change after 2014. Furthermore, many couples learned to live while hiding their family relationships, which

¹⁰⁶ Same-Sex Unions Act (OG 116/2003).

Not enforced since the 2014 and adoption of the Life Partnership Act (OG 92/2014)

includes hiding that fact from the members of their primary family. In the procedures for determining the existence of an informal life partnership, same-sex couples sometimes use terms to describe their relationship, and their own sexual and gender identities that are not legal terms such as "life partner". For example, we know of a case where life partners referred to their relationship as common-law marriage. This represents a problem because the courts do not recognize the specificity of LGBTIQ experience, such as hiding the relationship and lack of knowledge of new family forms, such as life partnership, which can mislead courts when making decisions.

To conclude, we consider that further efforts are needed to specialize and advance the work of judges and public notaries for work on cases pertaining to the realization of the rights of LGBTIQ persons, life partners, and especially informal life partners. In particular, it is important to improve the work related to informal life partners and elderly partners since all of the procedures we have monitored regarding the establishment of informal life partnerships were too lengthy, which leads to a lack of confidence in the Croatian legal system and the rule of law.

2.4.5. Same-sex parenting and family planning

Despite the existing legal and social obstacles, an increasing number of LGBTIQ persons in Croatia are planning for parenthood. So far, Zagreb Pride has noted the following ways of planning for parenthood by LGBTIQ persons: medical assisted fertilization abroad, single adoption of a child, agreement between life partners and a male donor for the purpose of insemination outside the health system, and an agreement between gay and lesbian couples.

Parental responsibility and adoption of a child are considered primarily in the child's best interest, without discrimination based on sexual orientation and gender identity (Family Act, Article 180, Paragraph 2). Individuals and different-sex couples who are not married (unmarried couples) have access to adoption, however, same-sex couples in life partnerships and informal life partnerships do not have an access to adoption, according to Article 185 of the Family Act. **Therefore, national legislation permits unmarried different-sex couples to adopt each other's children (a second-parent or step-parent adoption) and this does not apply to same-sex couples (both registered life partners and unregistered informal life partners)**. In addition, in practice, married different-sex couples prefer to adopt children who are in state's care¹⁰⁷. However, the Life Partnership Act introduced the institution of *partnership care* for same-sex couples only. Partnership care can be granted to a life partner who is not a parent of a child living in a household of same-sex life partners. The care can be granted through judicial proceedings under conditions elaborated in the Life Partnership Act, which are identical in practice as adoption procedure. Partnership care provides the life partner who is not a legal parent with all parental rights and obligations towards a child, *de facto* placing him/her on the same level as adoptive parent.

Medical assisted fertilization in the Republic of Croatia is possible solely for the purpose of infertility treatment and not as a form of family planning. Article 10 of the Act on Medically Assisted Reproduction¹⁰⁸ states that the right to medically **assisted fertilization is granted to women who are married, in common-law marriages or single**, and does not explicitly mention life partners (Article 10 Paragraph 2). However, only women who have been diagnosed

¹⁰⁷ Research on LGB parenting in Croatia funded by the Ministry of Social Policy and Youth conducted in 2015 and published in 2016 explicitly mentions on page 23 that in practice married different sex couples are preferred adoptive parents. IN CROATIAN: Maričić, A., Štambuk, M., Tadić Vujčić, M. i Tolić, S. (2016). *Roditeljstvo LGB osoba u Hrvatskoj: „Ja nisam gej mama, ja sam mama“*. Zagreb: Jesenski i Turk.

¹⁰⁸ Act on Medically Assisted Reproduction (OG 86/2012)

with infertility can legally have access to any of the medically assisted reproductive treatments (Article 4). The Life Partnership Act prohibits discrimination of life partners in regards to obligations, rights or benefits related to health insurance and health care¹⁰⁹. In conclusion regarding access to assisted fertilization, a woman who is in a life partnership and is diagnosed with infertility, can exercise the right to a medically assisted fertilization. We did not record such cases of exercise of the right to medically assisted fertilization to treat infertility by life partners.

By adopting the Life Partnership Act, **two institutes have been introduced to regulate and protect the family life of life partners and their children**. The first are **the shared parental responsibilities of a life partner** (Chapter 2.4.6.), and the second is **partner-guardianship** (Chapter 2.4.7.). Both institutes are the base of the right of a life partner of a child's parent to realize full parental responsibilities of the child or to realize that right in particular area of parental responsibilities. However, neither of these two institutes allow for a life partner to be recorded as a parent in the Registry just because their sex recorded in the documents is the same as of the other parent.

2.4.6. Parental responsibilities of a life partner

The implementation of the institute of parental responsibilities of a life partners is regulated by the applicable Family Act¹¹⁰ in accordance with Article 40, Paragraph 1 of the Life Partnership Act. Explanations relating to life partners are provided in other Paragraphs of Article 40, and Articles 41 to 43. Therefore, any change in the Family Act in relation to parental responsibilities directly affects the right to parental responsibilities of life partners and their children.

Parental responsibilities of a life partner are possible when both legal parents are recorded in the Registry and are exercising parental rights but want to share parental responsibilities with one or both of life partners. Shared parental responsibilities of a life partner, or partial parental responsibilities, are carried out by the life partner together with both legal parents who have to be in agreement. This form of planning for parenthood is the most similar to the way in which parents of children in marriages and common-law marriages share the areas of parental responsibilities with stepmothers, stepfathers or other family members. In cases where an area of parental responsibilities of a life partner is exercised for more than 30 days, the statement of legal parents on the area of parental responsibilities must be certified by a notary public. Such responsibilities and partial parental responsibilities may be of a temporary, permanent or one-time character, and last only until child turns 18, and may be partially or entirely entrusted to a third party or other persons. This institute of parental responsibilities in Croatia is used by female same-sex couples when planning a child in agreement with a familiar donor, or in agreement with a male same-sex couple.

Legal parents of the child and their life partners as well as to all other persons involved in child care can develop the plan of parental responsibilities in rainbow families at the family mediation. Mediation can be realized within the social welfare system, such as in family centers, or outside the social welfare system for a fee, with authorized family mediators enrolled in the Register of Family Mediators. In 2014, Zagreb Pride organized a specialized training for 20 family mediators for family mediation with rainbow families and formal and informal life partners, in cooperation

¹⁰⁹ Article 68, Paragraph 2 of the Life Partnership act: *Any less favourable treatment towards life partnership than that provided for marriage relationships is prohibited in terms of obligations, rights or privileges relating to compulsory health insurance or healthcare.*

¹¹⁰ Family Act (OG 103/2015)

with the Croatian Association for Mediation¹¹¹. Such possibility of planning parental responsibilities, however, is not foreseen in the theses of the 2016 working group for the adoption of the new Family Act nor was it foreseen by the withdrawn draft Bill of the Family Act of 2017.

2.4.7. Partner-guardianship of a child

A life partner of a child's parent may ask the competent municipal court to assign a partner-guardianship institute in three cases: i) if the child has one parent registered on the birth certificate, i.e. if the other parent is not legally recognized; ii) if the other parent is deceased; or iii) if the other parent is legally deprived of parental rights due to child abuse. When making a decision on appointing a partner-guardianship, the court will request the expert opinion from the social welfare center, which is required to obtain a child's opinion if the child is capable of understanding the meaning of partner-guardianship. The partner acquires permanent parental rights and responsibilities and all the rights and obligations that derive from them, which, in the legal sense, are the same as those existing between parents and children as well as children's descendants (Article 47 of the Life Partnership Act). A note about partner parental care is recorded in the Registry.

In the legal sense, the difference between partner-guardianship and adoption is that: i) partner-guardianship can be terminated by a request or agreement, ii) the name of the partner-guardian is not recorded in the existing sections in the birth certificate relating to the parents of the child ("father" and "mother") but under "notes"; and iii) the affiliation in a legal sense between partner-guardian and child under partner-guardianship is non transferrable to a relative of the partner-guardian, except in a case of legal children of partner-guardian. This means that, for example, a child under partner-guardianship cannot inherit the property of a grandparent on the partner-guardian's side. In such cases, it is necessary to regulate relations through a testament or contracts. Also, according to the provisions of the Life Partnership Act, children under partner-guardianship are equal in rights to legal children of partner-guardian (Article 47 of the Life Partnership Act). For example, after the death of a partner-guardian, their assets are inherited by their children and their children under partner parental care.

Since the entry into force of the Life Partnership Act, Zagreb Pride has assisted five life partnerships with initiating proceedings to appoint a partner-guardianship status. Two procedures were completed by a decision on appointing a partner-guardianship status while the remaining three are still in progress. All the procedures for granting partner-guardianship status were in Zagreb. The life partners did not express that they experienced any inconvenience or misunderstanding by the court or the competent social welfare center. Given the relatively small number of cases we have monitored, the only problem that has so far been identified in the exercise of partner parental care rights is the lengthy procedure, especially if there is an international aspect or relocation of a family abroad as is the case with one of the pending cases.

In conclusion, the Life Partnership Act provides a way to regulate the family relationships of LGBTIQ parents, namely life partners and their children or rainbow families. **It also guarantees large set of rights and is almost equal to marriage union in terms of rights and privileges. The Act, however, has serious shortcomings concerning parental rights that will eventually cause numerous problems and continue discriminatory practice by judiciary**

¹¹¹ Same-Sex Couples and Mediation in the EU. ed.: Moscati MF, London: Wildy, Simmonds & Hill, 2015: http://www.academia.edu/14457543/Same-Sex_Couples_and_Mediation_in_the_EU

and policy makers against LGBTIQ persons, and especially against children born in a life partnership.

2.5. Employment

Discrimination is prohibited in the area of employment, including the discrimination based on sexual orientation, gender identity and gender expression, according to Anti-Discrimination Act¹¹² (Article 7, Paragraph 1). Both harassment and sexual harassment are prohibited in all areas, including employment (Article 3). Labor Act¹¹³ explicitly addresses prohibition of direct and indirect discrimination in both employment and work conditions (applies to punishments), including selection criteria, promotion, vocational guidance, internship/vocational training and retraining (Article 7, Paragraph 4). In addition, the Labor Act obliges an employer who employs a minimum of twenty workers to adopt and make publicly available the working regulations, which, inter alia, should contain anti-discrimination measures if these issues are not already regulated by a collective agreement (Article 26 of the Labor Act).

Even though discrimination on the basis of sexual orientation and gender identity is prohibited, LGBT persons who suffer from discrimination at workplace report workplace discrimination to LGBTIQ organizations. Research and experience from the practice, as well as from complaints of LGBTIQ persons reveal frequent discrimination and harassment that remains unreported. It can be concluded that some employers do not respect the prohibition of discrimination or the obligation to protect the dignity of workers, that workers' rights of LGBTIQ persons are often violated, and that the legal mechanisms of protection against discrimination in employment are not being enforced. This is also corroborated by the Gender Equality Ombudsperson's reports¹¹⁴, indicating that during the period between 2014 and 2017, she received multiple complaints of discrimination against LGBT people on the labor market. However, the visibility of such cases is low due to the absence of legal proceedings. Some of these cases are described under 2.5.1. Discrimination of LGBTIQ persons in the area of employment – case studies

Similar to cases of discrimination on other grounds, the main reasons for the seldom reporting of discrimination in employment are the fear of job loss, wage cuts or the lack of possibility for advancement, which is further aggravated by prolonged unfavorable economic conditions and high unemployment. For more please see 2.5.2. Position of LGBTIQ persons in the workplace.

2.5.1. Discrimination of LGBTIQ persons in the area of employment – case studies

Between 2014 and 2017, Zagreb Pride received three reports for workplace discrimination based on sexual orientation and one on health status, namely HIV positive status. The first two cases pertained to discrimination and harassment in the workplace, and reports were filed by gay men. At that time, both were employed in the public sector: the first in a state agency, and the other as a staff member of a ministry. The third person was also employed in the public sector at a public institution, but due to HIV+ status, he was denied work. In the first two cases, the Ombudsperson for Gender Equality has also been informed, and has initiated appropriate measures for protection from discrimination in accordance with her authority.

The first case, related to discrimination at workplace in the state agency, was reported to us in 2014. The person who turned to us for legal assistance claimed to be subjected to discrimination by several superiors, solely on the basis of their sexual orientation. Discrimination was manifested through diminishing the value of the victim's work,

¹¹² Anti-Discrimination Act (OG 85/2008, 112/2012)

¹¹³ Labor Act (OG 93/2014, 127/2017)

¹¹⁴ Reports of the Ombudsperson for Gender Equality: <http://www.prs.hr/index.php/english/annual-reports>

punishments for unrelated accidents at work, preventing him from attending professional meetings and conferences which his colleagues in similar positions attended. Furthermore, he was given tasks that were not on his level of education or he was not assigned any tasks at all, and he was exposed to offensive speech. Proceedings related to protection from discrimination at work were launched in 2014 but the judgement is still pending.

The second case, related to discrimination at the workplace in a ministry was reported to Zagreb Pride in 2017. The person reported a complaint to us about being prevented from advancement due to sexual orientation, harassment, and degrading and humiliating treatment by his superiors and colleagues. The victim also informed us about the procedure conducted before the Ethics Committee, as prescribed by the Civil Servants Act and the Code of Ethics for Civil Servants. In the proceedings, more specifically the Ethics Committee's report, it was confirmed that there was no violation of the Code of Ethics, and that no evidence was found that other employees harassed the complainant in their communication, and specifically not on the basis of his sexual orientation. Due to the fear of job loss and creation of hostile environment for the complainant, the person has decided that he will not initiate any legal action until possible transfer to another work position.

The court practice in the area of employment discrimination is limited. The only final judgement establishing work discrimination that is known to us in the Krešić case against the Faculty of Organization and Informatics (FOI). In the judgement from 2013, the Varaždin County Court upheld the lower court's decision that the plaintiff suffered discrimination based on sexual orientation. In a separate procedure for compensation for damages caused by discrimination, the court ruled that the compensation that FOI would have to pay to Krešić amounted to 75 000 HRK, and not 250 000 HRK, as set out in the lawsuit. Krešić filed an appeal to the judgement claiming that the amount of compensation set out in the judgement is not consistent with the practice of the European Court of Human Rights, that the amount awarded is neither effective nor proportionate to the resulting discrimination, nor that the amount of damages may have a deterrent effect on the Faculty of Organization and Informatics as a discriminator¹¹⁵.

There are no special measures or policies that apply to a specific vulnerable group of LGBTIQ persons, including LBTIQ women, LGBTIQ persons of color, LGBTIQ persons of ethnic minority backgrounds, LGBTI persons from religious minorities, LGBTIQ sex workers and LGBTIQ persons with disabilities. In addition, there are no special measures nor policies that are tackling any work-related discrimination on multiple grounds that also pertains to sexual orientation and gender identity. Even though there is a lack of available research and discrimination/hate crime reports of especially vulnerable groups of LGBTIQ persons to LGBTIQ organizations, we have documented very few testimonies of especially vulnerable groups of LGBTIQ persons that indicate that the situation is serious and needs to be regulated. **For more please see the chapter 2.12. – Discrimination on multiple grounds.**

Trans persons are exposed to all forms of discrimination and breach of privacy because of the lack of comprehensive legal gender recognition legislation that would apply to all areas of life, including employment.

¹¹⁵Protecting the rights of LGBT workers in the climate of mobbing and society's silence: <http://ravnopravnost.lgbt/2017/03/26/protecting-the-rights-of-lgbt-workers-in-the-climate-of-mobbing-and-societys-silence>
Annual report 2016, Lesbian Group Kontra <http://www.kontra.hr/wp-content/uploads/2017/10/Annual-Report-Lesbian-Group-Kontra-2016.docx>

In 2013, a trans woman reported to Zagreb Pride¹¹⁶ harassment and discrimination at the workplace. Her superiors and colleagues refused to use the name and gender she identified with, she was not allowed to change her email according to the new name, even after the completion of legal name change. In addition, she was prevented from communicating with clients and was exposed to various forms of mobbing. Ultimately, the superiors have put pressure on the victim of discrimination to sign a voluntary termination of agreement, thus preventing the initiation of procedures for the protection of her employment rights.

In addition, trans persons have been experiencing difficulties with changing university diplomas and high-school diplomas after legally changing personal names and gender marker. While preparing this report, we have asked 47 universities and colleges in Croatia, both private and public, about their policy pertaining to adjustment of all public documents, including diplomas, of their students and former students who changed personal name or gender marker. We have received only 5 replies, 3 from universities and 2 from colleges. The content of these replies and 42 unanswered requests to provide information about the policy for changing personal data and gender markers in diplomas indicate the lack of awareness about the needs to protect the privacy of trans persons as well as to protect them from the discrimination when seeking employment. This also indicated that the more comprehensive legislation on gender recognition should be implemented in order to oblige universities, colleges and schools as well as the employers to recognize gender based on self-determination principle.

2.5.2. Position of LGBTIQ persons in the workplace

The area of employment and the position of LGBTIQ persons in the workplace is still insufficiently researched. Employers generally have no awareness of the need to protect LGBTIQ persons from discrimination nor the need to create an inclusive environment for all workers. However, in recent years, since the protection of LGBTIQ persons in the area of employment has started to be part of civil society organizations' work, this awareness slowly began to grow. The experiences of LGBTIQ persons in the workplace is the focus of several studies that show that discrimination at the workplace or during employment is widespread. Research also shows that LGBTIQ persons generally hide their sexual orientation or gender identity in the workplace. According to the Zagreb Pride survey from 2013, 54% out of 690 LGBTIQ respondents hide their sexual orientation and gender identity at work. 7% of respondents experienced discrimination with regards to access to employment or at the workplace once, while 8% experienced discrimination multiple times.

Such trends are also confirmed by the research "LGBTI Equality at Work" of the Common Zone Association conducted in 2016¹¹⁷. Results reveal that out of 389 respondents, 26% completely hide their sexual orientation, gender identity, and/or gender expression in the workplace, while 38% claim to be partially out, and only 37% claim to be completely out in the workplace. 13% of the respondents of this research are in a life partnership, 55% of whom did not inform their employer about their status, despite the fact that they have the right to realize the rights arising from life partnership. Most respondents hide their sexual orientation and/or gender identity in order to avoid embarrassment and problems at work, emphasizing the lack of possibility for an open-ended employment contract. Several research participants who work in the education system described their work environment as extremely homophobic because they are faced

¹¹⁶ See case of „Odvjetnički ured“, in Pink Megaphone: Report of Zagreb Pride on the Human Rights of LGBTIQ Persons in Croatia 2010 – 2011: <http://www.zagreb-pride.net/new/wp-content/uploads/2018/03/Pink-Megaphone-1.pdf>

¹¹⁷ LGBTI Workplace Equality <http://ravnopravnost.lgbt/2017/04/01/lgbti-workplace-equality-research-results/>.

with homophobic comments by students, and some were explicitly forbidden to come out about their identity due to alleged unfavorable influence on children.

When it comes to discrimination in the workplace, as many as 75% of respondents experienced some form of discrimination, harassment and/or abuse, with the largest number (61%) being exposed to homophobic comments and jokes. 9% of respondents received threats, and 3% of them were exposed to physical violence. It is alarming that only 11% out of 75% of LGBT respondents who have experienced some of described forms of discrimination, harassment and/or abuse at workplace reported these incidents to the employer.

As part of the same project of the Common Zone Association and partners¹¹⁸ on LGBTIQ workers' rights, a Workplace Equality Indicator was developed to help employers measure their actions and success in reducing discrimination based on sexual orientation, gender identity and expression, and the creation of an inclusive environment for LGBTIQ persons in the workplace. In 2017, 94 employers, employing over 12,000 workers in the Republic of Croatia, participated in the Equality Indicator¹¹⁹. Out of that number, 39 employers decided to publicly share information on participation in the Equality Indicator, for which they were granted recognition for the contribution to LGBTI equality in the workplace.

We are not aware of any research conducted in the reporting period on employers' attitudes towards LGBTIQ employees. Nevertheless, we do know general public's opinions on LGBTIQ persons and their work in certain public-sector professions. For example, according to the Ipsos Agency data obtained for our research in 2016¹²⁰, as many as 42% of the respondents believe that LGBTIQ persons should not be allowed to work in the area of basic healthcare provision.

In conclusion, even though discrimination in employment is prohibited for LGBT persons, prohibition of discrimination does not apply to intersex persons. According to available studies, most LGBTIQ people hide their identity from employers and colleagues. Discriminatory practice against LGBT people at the workplace exists and several legal cases have been initiated, however, this showed no deterrent effect on employers and the public at large. LGBTIQ organizations have only recently started a more systematic approach to ensure better work conditions for LGBTIQ workers and protection against discrimination in the workplace.

¹¹⁸ Project „Alliance For LGBTI Workplace Equality“: Expansion of Gender and Media Culture 'Common Zone', OWID-Organization for Workers' Initiative and Democratization, NGO Dawn and Lesbian Organization Rijeka LORI in cooperation with Trans Aid and Zagreb Pride.

¹¹⁹ Workplace Equality Inspector is an evaluation tool in the form of a questionnaire by which employers gain evaluate their policies and practices pertaining to inclusive work environment. The Workplace Equity Indicator also offers guidelines for promoting workplace equality for vulnerable groups with a focus on LGBTIQ people.

¹²⁰ Research available from Zagreb Pride upon request.

2.6. Education

Appropriate legislative measures exist to ensure the right to education without discrimination on grounds of sexual orientation and gender identity, however, despite the fact that education is often emphasized as a major policy priority for the Croatian Government, **decision makers have so far failed to adopt any programs, guidelines and regulations directly related to sexual orientation and/or gender identity as legally recognized and protected grounds for the prohibition of discrimination.** No program has been adopted for combating homophobia, biphobia and transphobia in schools, and it is implemented only through an informal education, in cooperation with civil society organizations, and based on the good will of the principal of a particular school. The Education and Teacher Training Agency (In Croatian: *Agencija za odgoj i obrazovanje, AZOO*) has not so far approved nor recommended any programs or campaigns for combating homophobia and transphobia in schools and teachers and school professionals have had limited training on any LGBTIQ-related topic.

The Anti-Discrimination Act (Article 1 and Article 8) and the Law on Science and Higher Education¹²¹ (Article 77) prohibit any form of discrimination in education and sports, as well as higher education and science, including discrimination based on sexual orientation, gender identity and gender expression. The Gender Equality Act (Article 14) considers gender-related content to be an integral and compulsory part of pre-school, elementary and secondary education, lifelong education and training, and this also applies to sexual orientation and gender identity and expression. This Act obliges the authorities responsible for education to eliminate inequalities based on gender stereotypes at all levels. In addition, the Gender Equality Act stipulates that all institutions in the Republic of Croatia, including educational institutions, must include the language labels "male and female gender" in the certificates, licenses and diplomas in accordance with the gender of the person to whom the document is being issued.

Since the adoption of a new Rules on the Forms and Content of Pedagogical Documentation and Records of Students in Educational Institutions¹²² in May 2017, school certificates and other public documents no longer contain a section with the gender of the student nor the name of their parents or guardians (Article 48). This data remains only in the basic record, more precisely in the Register for students of primary and secondary schools. Although this change was not introduced with a special intention to protect the privacy of trans persons or children whose parents are of the same sex, new forms for certificates and other public documents that have been in use since the school year 2017/2018 will ensure greater protection of LGBTIQ persons against discrimination as well as protection of their privacy.

Despite the legal prohibition of discrimination against LGBT persons and given the failure to implement plans aimed at reducing homophobia, biphobia and transphobia in the education system, basic knowledge and attitudes about LGBTIQ persons are primarily formed through religious instruction, which, unlike health education and civic education, is systematically implemented in public schools.

There have been no safety, equality policies nor action plans adopted concerning anti-LGBT school bullying. National policies regarding human rights and gender equality do

¹²¹ Law on Science and Higher Education (OG NN 123/2003, 198/2003, 105/2004, 174/2004, 02/2007, 46/2007, 45/2009, 63/2011, 94/2013, 139/2013, 101/2014, 60/2015, 131/2017)

¹²² Rules on the Forms and Content of Pedagogical Documentation and Records of Students in Educational Institutions (OG 42/2017)

not address LGBT pupils nor anti-LGBT school bullying. There is an overall negative campaign against any mention of LGBTIQ topics in schools. This campaign has been initiated by the Catholic Church since 2005 and has grown strong especially since 2012. In 2016, LGBTIQ organizations LORI and Zagreb Pride implemented a small grant pilot-project, co-sponsored by the Ministry of Social Policy and Youth, on promoting acceptance among pupils with the goal to reduce anti-LGBTIQ school bullying. The program consists of one lecture (45 minutes) and is intended for secondary school students (2nd or 3rd grade) with the aim of informing them about the fundamental rights of LGBTIQ persons in order to combat homophobic and transphobic peer violence. These lectures are complementary to the curriculum of health education and the modules "Prevention of Violent Behavior" and "Sex/Gender Equality" (for more, please see the **Chapter 2.6.2.2. Discrimination of LGBTIQ persons in the field of education - Health Education**). Between 2013 and 2017, Zagreb Pride and LORI held the total of 49 lectures in secondary schools in Zagreb, Rijeka, and Opatija for 1092 students: 225 in Zagreb, and 837 in Rijeka and Opatija. In addition, from 2012 until 2016, LORI held additional 3 lectures in which 63 school teachers participated.

2.6.1. Position of LGBTIQ persons in the field of education

Measures concerning anti-discrimination trainings for teachers and school specialists have been provided to a limited extent. The attendance of these lectures was not made obligatory by the Education and Teacher Training Agency and instead, teachers and teacher mentors were called directly by the lesbian organization LORI from Rijeka, which organized the trainings as part of the project activities. In 2012, LORI held their first seminar for 14 teachers/teacher mentors from Rijeka and Opatija. In 2015, a total of 23 teachers/ teacher mentors from 18 secondary schools of Primorje-Gorski Kotar and Istria County participated in similar trainings while in 2016 a total of 26 teachers/teacher mentors from continental Croatian cities participated. **Therefore, a total of 63 secondary school teachers were trained out of approximately 27.000 secondary school teachers in Croatia.** This means that, overall, schools in Croatia do not have trained staff to inform, protect or support LGBTIQ students who, in practice, turn for information and support to LGBTIQ organizations.

The research conducted in the Republic of Croatia as well as the complaints we received in the reporting period point to various forms of abuse and violence against LGBTIQ persons in schools, and to the fact that schools are generally unsafe for all persons who openly express their gender identity and/or sexual orientation.

According to the 2012 survey carried out in secondary schools in Zagreb on the opinions and attitudes towards homosexuality¹²³, with a sample of 322 students, almost one third of secondary school students committed verbal and/or physical violence against another person because of their assumed homosexual orientation. According to the Zagreb Pride survey published a year later, in 2013¹²⁴, 22% out of 690 respondents experienced violence at school and/or university, while 31% of participants in this research experienced discrimination.

¹²³ IN CROATIAN: A. Hodžić i N. Bijelić, Izvještaj istraživanja o mišljenjima i stavovima prema homoseksualnosti u srednjim školama u Zagrebu 2012., Domino, Zagreb.

¹²⁴ Brutal Reality: A Research Study Investigating Anti-LGBTIQ Violence, Discrimination and Hate Crime in Croatia: <http://www.zagreb-pride.net/en/brutal-reality-research-study-investigating-anti-lgbtiq-violence-discrimination-hate-crime-croatia/>

According to the research conducted by the GOOD Initiative and the Institute for Social Research¹²⁵ conducted in 2015 among the students of the final grades of three and four-year secondary schools on a national representative sample of 1146 participants, most students believe homosexuals should not publicly express their sexual orientation. In addition, more than half of them believe that homosexuals should be banned from public appearances. Only slightly less than half believes that persons of homosexual orientation should be banned from working with children. Moreover, half of them think homosexuality is a type of disorder or disease. Interestingly, 56% of respondents would not allow homosexuals the right to adopt children, which is still a smaller percentage than that of the general population who holds this belief, according to IPOS PULS agency data for Zagreb Pride and CESI from 2014¹²⁶. The percentages pertaining to the ban on public appearances are 11% lower than for the identical question posed to students in senior grades of secondary schools, based on research of GONG and the Faculty of Political Studies from 2009, while almost the same number of respondents from 2009 (46%) and 2015 (48%) believes that homosexuality is a type of disease.

Zagreb Pride participated in the monitoring of peer violence against LGBTIQ student of a Zagreb secondary school. Violence occurred continuously and lasted for a long-time and was particularly intensified after the student came out. In cases of earlier complaints from LGBTIQ students about bullying, we could only refer a person for psychosocial support, but in this case the parent of the abused LGBTIQ student knew about their sexual orientation and had the intention to initiate all available legal action to prevent the violence. Through following this case over the course of several months, we have witnessed that the key issue is protecting LGBTIQ students from direct violence experienced by their peers at all times, during and after classes. Particularly alarming and surprising was the complete misunderstanding and inadequate conduct of a school-based staff who had told the 17-year-old victim of homophobic peer violence that they were *"too young to be a homosexual"*, thereby further humiliating and degrading the victim. Furthermore, the school principal attempted to cover up the whole problem in order to *"protect the school's reputation"*. Zagreb Pride provided information to the parent of the LGBTIQ student, who initiated proceedings for a warning and recommendation to be issued by the Ombudsperson for Children and Ombudsperson for Gender Equality for discrimination and harassment of the student. The proceedings before the Ombudspersons have been completed by carrying out inspection, determining harassment and discrimination, and issuing warnings and recommendations for conduct with accompanying deadlines. Warnings and recommendations relate mainly to school's conduct in cases of harassment and discrimination, education of employees, supervision of classes and students.

Based on the reports to Zagreb Pride, students do not usually turn to the teachers or staff of the school, because of the fear that they will experience rejection and judgement. On the other hand, school staff does not have sufficient information nor adequate knowledge about psychosocial support for LGBTIQ youth.

Respect for the rights and dignity of trans pupils and students is generally absent in many aspects, starting with the respect of self-determined name and gender marker in educational documents, namely secondary school certificates and reports as well as university diplomas. Trans persons are exposed to all forms of discrimination and breach of privacy because there is

¹²⁵ IN CROATIAN: „Od podanika do građanina: razvoj građanske kompetencije mladih“, GOOD Inicijativa, IDI, 2016.: <http://idiprints.knjiznica.idi.hr/507/1/Od%20podanika%20do%20građana.pdf>.

¹²⁶ Data available from Zagreb Pride and CESI: 81% respondents are opposed to adoption of children by gay couples and 70% by lesbian couples.

a lack of comprehensive legal gender recognition legislation that would apply in all areas of life, including education. Policies on gendered facilities and classes for trans pupils are non-existing so in practice it depends on a particular school or teacher to decide what the policy is and how it applies to trans students¹²⁷. Since 2013, Zagreb Pride referred two trans persons to initiate proceedings before the Ombudsperson for Gender Equality because two educational institutions - one faculty of the University of Zagreb and one secondary school - refused to re-issue a diploma reflecting persons' personal name and gender. Given that this right of trans persons is hindered in practice, whether because of the ignorance of civil servants or bureaucratic resistance, we consider it necessary that the existing laws on education, and higher education and science oblige the competent institutions to respect gender identity of a person and enable the change of documents so that they reflect the change of gender and personal name in the state registry.

2.6.2. The School Curricula

Measures that have been introduced to provide objective information on sexual orientation and gender identity in school curricula are misleading as well as discriminatory towards LGBT persons.

Since 2013, all LGBTIQ topics were addressed only in the scope of religious instruction and health education. Through analyzing available research, literature, handbooks for teachers and textbooks, Zagreb Pride has come to the conclusion that both subjects treat LGBTIQ topics in an inappropriate and humiliating way, by encouraging students to adopt gender stereotypes and prejudice against LGBTIQ persons. In addition to religious instruction and health education, civic education in elementary and secondary schools was supposed to be implemented during the school year 2014/2015. It is expected that civic education will also focus on LGBTIQ topics, however, until the completion of this report, the implementation of this program was still in the experimental phase and has not been fully implemented.

2.6.2.1. Discrimination of LGBTIQ persons in the field of education – Religious Instruction

Religious instruction (in Croatian: *vjeronauk*) is an electoral subject, which is implemented in public schools based on the contract between the Republic of Croatia and religious communities¹²⁸. While students in secondary schools have an option of attending religious instruction or ethics¹²⁹, there is no such option in primary schools, and children who do not attend religious instruction have one lesson a week less compared to the children who attend religious instruction. The vast majority of children and youth attend the Roman Catholic Church (RCC) Catechism. According to the data of the Education and Teacher Training Agency of the Ministry of Science and Education for the school year 2015/2016, 86% of primary and

¹²⁷ Some schools in Croatia can organize gendered physical education classes, this decision is left to a school of a professor/headmaster. Changing rooms / locker-room are usually the only gendered facilities. Toilets are gendered facilities in most schools, however some high-schools have gender-neutral toilets.

¹²⁸ Such agreements were concluded with three religious communities: the Catholic Church, the Islamic Community and the Serbian Orthodox Church. In the case of Roman Catholic Church religious instruction, catechism is held for two hours a week on the basis of the International Treaty between the Holy See and the Republic of Croatia on cooperation in the area of upbringing and culture (OG, International Agreements, 2/97).

¹²⁹ Ethics is often chosen by students who are members of religious communities, but whose religious instruction is not taught at schools.

secondary school students attended RCC catechism, 0.67% Orthodox religious instruction, 0.49% Islamic religious instruction, while 18% of secondary school students chose ethics.¹³⁰

There is a strong social and institutional pressure placed on attendance of RCC catechism in elementary schools. This pressure is manifested through conditioning related to the participation in religious rites (sacraments). Namely, for Catholic believers, at least three such rites¹³¹ occur (predominantly) between the ages of 8 and 14, and participation in these rites is crucial, inter alia, for an adult person to obtain the consent from the religious authority to conclude marriage in a religious form¹³². Furthermore, although there is a recommendation from the Ombudsperson for Children to schedule catechism as the first or the last class in a day or in a different shift, this is usually not the case¹³³. Many parents consent to their child attending catechism because many children who do not attend catechism have no substitute teaching during this time and are left without proper school or teacher supervision.

Out of all the subjects taught in schools, students most often learn about homosexuality at catechism. According to the research conducted by Kuliš-Petrović in 2018¹³⁴ among 239 students of three gymnasiums and three vocational schools in Zagreb, more than 2/3 of the respondents stated that homosexuality is most commonly taught in classes of catechism (75%) and ethics (73%), followed by sociology and psychology (50%). The analysis of the content of elementary and secondary school textbooks for catechism¹³⁵¹³⁶, the main source of information on homosexuality, showed that it is addressed as 'an unexplored human condition', 'contrary to the natural law', and that 'homosexual act cannot be approved under any conditions'. Such teaching coincides with the most common attitude of secondary school students on homosexuality¹³⁷. According to the GOOD Initiative and Institute for Social Research, almost half of the senior secondary school students (48%) think homosexuality is a type of illness.

Considering that the content of the school catechism promotes discrimination on the grounds of sexual orientation and gender identity among the students and negative attitudes towards LGBTIQ persons, and considering secular character of the Republic of Croatia based on the constitutional principle of separation of state/public and religious institutions, Zagreb Pride

¹³⁰ „86% of Pupils Attend Catholic Religious Studies in Croatian Schools“, Total Croatia News, Vedran Pavlic, November 23, 2016: <https://www.total-croatia-news.com/politics/14965-86-of-pupils-attend-catholic-religious-studies-in-croatian-schools>

¹³¹ Sacrament of Penance (“reconciliation”, “penance”, “confession”), Eucharist (“Holy Communion”) and Confirmation.

¹³² According to Croatian Bureau of Statistics from 2013, out of all marriages in Croatia, 56.7% were religious and 43.3% were civil marriages. For more: http://ec.europa.eu/eurostat/statistics-explained/index.php/Marriages_and_births_in_Croatia

¹³³ IN CROATIAN: Izvješće o radu pravobraniteljice za djecu za 2010. godinu.: <http://dijete.hr/izvjesca/izvjesca-o-radu-pravobranitelja-za-djecu>

¹³⁴ IN CROATIAN: “Istraživanje povezanosti nekih obrazovnih faktora i stavova srednjoškolaca o osobama homoseksualne orijentacije”, Ivan Kuliš i Dora Petrović, „Psychē“ - časopis Kluba studenata psihologije „STUP“, 2018: https://www.crol.hr/images/kulis_petrovic_1.pdf

¹³⁵ IN CROATIAN: S. Brumen (2012.) *LGBT tematika u udžbenicima za srednju i osnovnu školu*, Lezbijska grupa Kontra, str. 64.

¹³⁶ IN CROATIAN: Istraživanje: rodni aspekt u udžbenicima vjeronauka za osnovne i srednje škole, Pravobraniteljica za ravnopravnost spolova, 2012.: <http://www.prs.hr/attachments/article/718/VJERONAUKE%20istraživanje%20-%20Rodni%20aspekt%20u%20udžbenicima.pdf>

¹³⁷ IN CROATIAN: „Od podanika do građanina: razvoj građanske kompetencije mladih“, GOOD Inicijativa, IDI, 2016.: <http://idiprints.knjiznica.idi.hr/507/1/Od%20podanika%20do%20građana.pdf>.

advocates that religious instruction in Croatia should be conducted exclusively in religious institutions, and not in public schools.

2.6.2.2. Discrimination of LGBTIQ persons in the field of education - Health Education

In the primary and secondary schools, the Curriculum for Health Education is divided into four modules: "Living Healthy", "Addiction Prevention", "Prevention of Violent Behavior" and "Sex/Gender Equality and Sexually Responsible Behavior". Health education started being implemented in the school year 2012/2013, however, because of the decision of the Constitutional Court of the Republic of Croatia (OG 63/2013), it was temporarily withdrawn since the Government of the Republic of Croatia did not conduct an appropriate public hearing on its content. In the revised curriculum from September 2013, education on sexual orientation and gender identity in primary schools was removed. LGBTIQ persons are being discussed in secondary schools in the scope of the class on marriage and family and during one to two classes titled "Stigmatization and Discrimination of Sexual Minorities". In the scope of this topic, the following terms are addressed: "*sexual and gender minorities*", "*LGBT*", "*gay*", "*sexual orientation*," "*homosexuality*," "*bisexuality*," and "*transsexuality*".

The Handbook for Teachers and School Associates in Primary Schools¹³⁸, provides guidelines for teachers to provide a brief explanation of the term *homosexuality*, in the scope of the topic "Communication about Sexuality" in the seventh grade¹³⁹, only if there is an interest from students. Furthermore, the Handbook refers to *homosexuality* in the context of concepts such as pedophilia and incest. While the definitions of incest and pedophilia are accompanied with mandatory instructions that the teacher should emphasize these constitute "disorders and criminal offenses", the definition of homosexuality is accompanied with an explanation that homosexuality "*is no longer considered a disease today but merely a sexual orientation or affinity that is different from heterosexuality*". Consequently, children of elementary school age do not receive any basic facts about sexual orientation and gender identity, and homosexuality is mentioned exclusively in a negative context, together with "pedophilia, incest, and other" (Handbook¹⁵, p. 200).

In the Handbook for Teachers and School Associates in Secondary Schools¹⁴⁰, in the scope of the topic "Marriage" for the third grade¹⁴¹, the notion of same-sex marriages and families is referred to as "*a controversial issue*" (p. 227), while the topic of same-sex couples with children is called "*an extremely controversial topic*" (p. 229). Furthermore, there is a statement that "*in some countries there are families with parents of the same sex*" (p. 228), leading to the conclusion that there are no such families in Croatia. This gives inaccurate and incomplete information to students in secondary schools, encourages prejudice about the absence of rainbow families¹⁴² and stigmatizes same-sex families with children. Also, the Handbook includes completely incorrect statement (p. 227) that "*in Croatia in 2003, the Croatian Parliament adopted the Law on Same-Sex Partnership*". Such law has never been passed in

¹³⁸ IN CROATIAN: Priručnik za nastavnike i stručne suradnike u osnovnoj školi, Ministarstvo znanosti, obrazovanja i sporta, Agencija za odgoj i obrazovanje: http://www.azoo.hr/images/zdravstveni/Zdravstveni_odgoj_-_Prirucnik_OS_predmetna.pdf.

¹³⁹ Primary school system in Croatia is from 1st to 8th grade; ages 7 to 14.

¹⁴⁰ IN CROATIAN: Priručnik za nastavnike i stručne suradnike u srednjoj školi, Ministarstvo znanosti, obrazovanja i sporta, Agencija za odgoj i obrazovanje: <http://www.azoo.hr/images/razno/Kurikulum-1-4-razred-SS-FINAL-s-ispravkom.pdf>.

¹⁴¹ Secondary school system in Croatia is from 1st to 4th grade; ages from 15 to 18. High schools for medical professions have additional 5th grade.

¹⁴² **Rainbow Families** – families in which at least one parent is a LGBTIQ person.

the Republic of Croatia. In 2003, the Croatian Parliament adopted the Same-Sex Unions Act, which ceased to be in force in 2014 since it was replaced by the adoption of the Life Partnership Act. Neither the Life Partnership Act nor the concept of a life partnership are mentioned in the Handbook.

The chapter "Stigmatization and Discrimination of Sexual Minorities", which is intended for third grades, (p. 237 – 247), is addressed only through the psychology literature that uses an inappropriate definition of transexuality ("*transsexuality*")¹⁴³. Trans and gender identity are not defined at all but are merely mentioned. When dealing with the subject of "sexual and gender minorities", students are encouraged to divide into four different groups and thus confront their attitudes after they are introduced to the "attitude" on "homosexuality" of "the Catholic Church," "the law," "science," and "public/society". In this way, different worldviews about LGBTIQ identities are given equal value to legal regulations and scientific knowledge, thus suggesting that the entire legislative framework of the Republic of Croatia, international legal instruments for protection and scientific achievements are optional. Moreover, the Pride March (In Croatian: *Povorka ponosa*) that is regularly held in Zagreb and Split is mistakenly called the "Pride Parade" (In Croatian: *Parada ponosa*), which again gives students false information about the event and leads to the faulty conclusion about the nature and purpose of this event, which is a protest and public gathering guaranteed by the Constitution of the Republic of Croatia. And finally, within the Curriculum and the Handbook, it is not once assumed that some students are also LGBTIQ persons or children coming from rainbow families. In practice, health education classes are interdisciplinary, and the topics covered through the module "Sex/Gender Equality and Responsible Sexual Behavior" are held during the homeroom class.

The National Center for External Evaluation of Education has produced a report on the implementation of health education for the school years 2012/2013 and 2013/2014¹⁴⁴. As the biggest problem in the implementation of health education, the teachers emphasized that in fact no comprehensive training was carried out for its implementation, while the least frequent problem was that the program violated their religious feelings. Many of them do not feel competent enough to implement all the contents of health education and turn for assistance to their colleagues or external associates. For this reason, Zagreb Pride and LORI have created a program for lectures in schools related to sexual orientation, gender identity and gender expression. The program has been accepted by only handful of schools. From 2013 to the end of 2017, Zagreb Pride and LORI held a total of 49 lectures in secondary schools in Zagreb, Rijeka, and Opatija for 1092 students: 225 in Zagreb, and 837 in Rijeka and Opatija. In addition, from 2012 to 2016 LORI held additional 3 lectures in which 63 school teachers participated.

2.6.2.3. Discrimination of LGBTIQ persons in the field of education - Civic Education

The Ministry of Science and Education was supposed to introduce the subject of Civic Education in the education system for the school year 2014/2015. However, apart from the experimental implementation in several schools in the Republic of Croatia, the comprehensive implementation of the program of this subject has not yet begun.

¹⁴³ Inappropriate definition: "*Transsexuality is a permanent feeling of discomfort and dislike of the sex in which the person is born. Transsexual person tends to live as the person of the opposite sex and wants to be accepted as such.*"

¹⁴⁴ IN CROATIAN: "Što kaže evaluacija Zdravstvenog odgoja?", Izvještaj, SeZaM, 3. travnja 2015. godine: <http://www.sezamweb.net/hr/vijesti/943-sto-kaze-evaluacija-zdravstvenog-odgoja>.

The reason for its non-implementation is political. Throughout 2016, the implementation of the so-called Curricular Reform, i.e. reform of education in the Republic of Croatia, which started in 2012 as a part of the program of the Government of Zoran Milanović, has been stopped. Through initiating an expert public hearing and based on the decision of the Croatian Parliament, the so-called Curricular Reform in education has become an integral part of the national policy called Education, Science and Technology Strategy¹⁴⁵.

According to the plans of the Ministry of Science and Education, students should be taught about respect for human rights, respect for diversity, democracy, active citizenship, entrepreneurship and sustainable development within the scope of Civic Education. Unlike the Health Education program, the curricula of Civic Education does not include topics that emphasize LGBTIQ rights, but there is space for them to be integrated in parts of programs related to gender equality and human rights. For the school year 2016/2017, only the City of Rijeka enabled to students of upper grades in 6 elementary schools to attend extracurricular subject Civic Education for 35 hours per year. A special Handbook was created for implementation of this program¹⁴⁶.

¹⁴⁵ Education, Science and Technology Strategy (OG 124/2014)

¹⁴⁶ IN CROATIAN: "Učenik građanin - priručnik za građanski odgoj i obrazovanje", Grad Rijeka, 2017.: <https://www.rijeka.hr/wp-content/uploads/2016/05/Učenik-građanin-Priručnik-za-Građanski-odgoj-i-obrazovanje.pdf>

2.7. Health

According to the Anti-Discrimination Act (OG 85/08, 112/2012), Article 8, **discrimination based on sexual orientation and gender identity is prohibited in area of health insurance (Paragraph 3) and health care services (Paragraph 4). Sex characteristics are not mentioned in any policy or legislation pertaining to health. In addition, no other measures pertaining to health exist that would ensure access to health services or provide for specific needs of LGBTIQ persons.**

The National Health Care Strategy for the 2012 – 2020¹⁴⁷ does not mention LGBTIQ health and does not envision any measures nor a separate health care plan that would be applied to LGBTIQ persons specifically. **None of the specific health prevention programs have measures that would specifically target LGBTIQ persons or their needs, except for the National Plan for HIV/AIDS Prevention.** For example, National Plan for Prevention of the Youth Suicide for 2011 – 2013¹⁴⁸ did not have any measures for LGBTIQ youth suicide prevention and the new National Plan has not been prepared nor adopted since 2013.

Medical and related faculties and higher schools educating future generations of health professionals who will work on the healthcare of LGBTIQ persons show little interest for gaining knowledge or experience of working with LGBTIQ persons and the current work of the LGBTIQ organizations. Unlike the study programs of psychology at most universities and faculties in the Republic of Croatia, the Faculty of Medicine of the University of Zagreb has never expressed interest in the experiences and needs of LGBTIQ persons in the area of health care. We do not know whether any lecture was organized on health of LGBTIQ persons from the perspective of their needs at this faculty or any other medical school. This is a discouraging approach to the protection of health and fundamental rights of LGBTIQ persons by institutions responsible for education of experts. This approach is also manifested in the lack of scientific research on the needs of LGBTIQ persons in the health field, which is not limited to sexually transmitted diseases.

No health surveys, medical curricula nor training programs exist, nor have been planned to ensure for the specific needs of LGBTIQ persons to be taken into consideration for the development of the national plans. Since no measures for LGBTIQ health-care exist, **we are not aware if any monitoring and/or evaluation of quality of health-care services** has been conducted for the programs and services offered to LGBTIQ persons. However, Zagreb Pride has collected data from several surveys conducted in the recent years that reflect on the area of health care. One research has shown that most LGB people are not out and open about their sexual orientation to doctors or general practitioners¹⁴⁹. Other research has shown that a large number of LGBTIQ persons often face negative experiences from healthcare workers¹⁵⁰.

¹⁴⁷ National Health Care Strategy 2012 – 2020:

<https://zdravlje.gov.hr/UserDocsImages/dokumenti/Programi,%20projekti%20i%20strategije/National%20Health%20Care%20Strategy%202012-2020.pdf>

¹⁴⁸ IN CROATIAN: Program prevencije samoubojstva kod djece i mladih za razdoblje 2011 – 2013:

<https://vlada.gov.hr/UserDocsImages/Sjednice/Arhiva//104-04.pdf>

¹⁴⁹ According to research by Igor Grabovac et al. from 2012 on a sample of 330 LGB persons, as many as 83% of respondents stated that their primary medical practitioner is not familiar with their sexual orientation.

¹⁵⁰ According to research by Igor Grabovac et al. from 2012 on a sample of 330 LGB persons, 30% of respondents faced negative experiences from doctors. According to the Zagreb Pride survey from 2013 on a sample of 690 LGBTIQ persons, discrimination in the area of healthcare was experienced by 39 persons multiple times (5.7%) and by 23 persons once (3.3%).

Through direct communication with members and beneficiaries of Zagreb Pride and partner organizations, we concluded that LGBTIQ persons often ask for recommendations about friendly doctors and GPs, dentists or gynecologists and psychiatrists. There are also inquiries about sexual and reproductive health. Trans persons are regularly seeking recommendations for friendly and/or professional persons from all areas of healthcare, especially those areas related to obtaining consent for the change of gender mark in their personal documents. There is a specific need of LGBTIQ children, adolescents and youth for protection of mental health due to the violence and discrimination that these young people are exposed to. They often also turn for support in the coming out process to families or friends.

The patients do not specifically identify their “next of kin” according to the Patients’ Rights Act¹⁵¹ and the Ordinance on the Form of Compliance and the Statement Form on the Rejection of an Individual Diagnostic or Therapeutic Procedure¹⁵². Both policies instead recognize the term of “legal representative” for the unconscious patients and patients who cannot give a legal consent. In practice, “the legal representative” in emergency situations is a spouse or a close family member. However, in order to protect same-sex couples from any form of discrimination in the area of medical emergencies, **since the adoption of the Life Partnership Act in 2014, the right to identify a same-sex partner (life partner and informal life partner) as the “next of kin” is embodied into the Act under Article 67.** We have not received any complaints from LGBTIQ persons regarding difficulties with the implementation of this provision.

Life Partnership Act (92/2014)
Possibility of protection of the health interests of a life partner
Article 67

(1) For the sake of the protection of the interests and welfare of a life partner who is not capable of giving consent to any form of medical procedure regulated by separate legislation, life partners shall have equal rights and obligations to marital partners.

(2) Any unfavorable treatment in the exercise of the rights and obligations referred to in paragraph 1 of this Article in practice, caused by the fact that a life partnership is a relationship between persons of the same sex, constitutes discrimination on the basis of sexual orientation.

2.7.1 Healthcare services for trans people

Trans persons do not have an adequate access to all appropriate gender reassignment services. Services available to trans persons are psychological, psychiatric, and endocrinological services. Medical surgeries are limited to mastectomy only. Other surgeries for the purpose of modification of sex are performed abroad, and the trans persons have to cover the costs. In the period between 2013 and 2016, we documented several cases in which mastectomy was covered through the system of public health insurance, namely, the cost of the operation was covered by the Croatian Health Insurance Fund on the basis of the contracted supplementary health insurance¹⁵³. After 2017, and with the appointment of a current Minister of Health in the Cabinet of Andrej Plenković¹⁵⁴, trans persons began to receive bills related to

¹⁵¹ Patients’ Rights Act (OG 169/2004, 37/2008)

¹⁵² Ordinance on the Form of Compliance and the Statement Form on the Rejection of an Individual Diagnostic or Therapeutic Procedure (OG 10/2008)

¹⁵³ Supplementary health insurance can be contracted no later than 30 days before the operation. Data obtained from interviews with persons who have been medically modifying their sex (June 2018).

¹⁵⁴ 14. Government of the Republic of Croatia is comprised of the Prime Minister Andrej Plenković's Government, where Milan Kujundzic was elected as the Minister of Health on October 19, 2016.

mastectomy costs. Hormonal therapy for trans persons is available in Croatia. After a positive assessment by psychologists and psychiatrists, a person may report to endocrinology to begin with hormonal therapy. The examinations needed for hormonal therapy are currently covered by the Croatian Health Insurance Fund, however, the costs of the hormones have to be covered by the person.

All of these services are not accessible to trans people living in smaller communities so in order to access them, they have to travel to Zagreb or Rijeka. According to the Ordinance on the Methods of Collecting Medical Documents for Establishing the Conditions and Provisions for the Change of Sex or Life in the Different Gender Identity¹⁵⁵ **no person is to be forced to undergo any medical treatment, including gender reassignment surgery (the Ordinance refers to it as “surgical change of sex”), sterilization and hormonal treatment as a requirement for legal gender recognition.** Since the enforcement of the Ordinance (2014) and its actual implementation (2016), we have not been informed of any unreasonable requirements by health services and medical staff from trans people. However, the biggest concern for trans persons remains the non-existing comprehensive legal gender recognition legislation that would apply in all areas of life, including health, in order to provide and ensure free access to all health services needed to trans people For more please see the Chapter **2.4.1. Legal gender recognition.**

The Ordinance applies only to a list of medical specialists approving “change of (legal) sex” and “life in a different gender identity” **and does not regulate or guarantee access to any of the health service needs to trans people and does not regulate the costs of such treatment.** The practice of covering the costs of gender reassignment medical treatments by the public health insurance has been inconsistent and conflicting and **trans people are facing great limitations due to costs are sometimes not being covered by health insurance for gender reassignment surgeries**, e.g. mastectomy. In addition, while costs of endocrinological counseling and treatment is covered by the public healthcare, the hormones for trans people are not covered by the public healthcare for trans men, while the information about the access to hormones for trans women has also been conflicting and inconsistent. **This inconsistency is due to the fact of non-existing nor binding legislation pertaining to public healthcare services for trans persons.** Private health insurances do not advertise health plans for trans persons and we have found no evidence that trans people use private health insurances.

There are no legislative nor any other measures in place that would ensure that no person is subjected to unwanted gender reassignment procedures and so called “conversion therapies”. Existence of so called “*conversion therapies*” as such are not publicly mentioned nor confirmed. However, we regularly receive complaints that psychiatrists “discourage” LGBT persons, especially LGBT youth, from accepting their sexual orientation and gender identity, suggesting to them to “conform to heterosexuality” or for trans persons to just learn to accept their gender assigned at birth. “*Conversion therapies*” do exist outside of the public health system and they have been advertised as “support groups for families” by different organizations, some of them even using the name for themselves or their programs that is identical to a public service institution, such as the name “Family Center¹⁵⁶”. Such “support groups” are official and unofficial organizations affiliated with the Catholic Church in Croatia.

¹⁵⁵ Ordinance on the Methods of Collecting Medical Documents for Establishing the Conditions and Provisions for the Change of Sex or Life in the Different Gender Identity (OG 132/2014)

¹⁵⁶ Family centers are units of Social Service Centers at the municipality level that offer social support services to families, such as family mediation, individual and group counselling and training programs for families, including

There are no special measures in place to ensure, unless necessary for health reasons, that no child has their body irreversibly changed as part of sex normalizing surgeries. We have found no policies or regulators that would address intersex people and/or children and the practice of the health and medical experts is unknown to us.

In conclusion, most of LGBT people ask civil society organizations for the recommendations about “LGBT friendly” doctors, health providers, including mental health and other medical staff and/or health services. Furthermore, since there is no clear policy on health care related to medical and/or surgical modification of sex nor the general health policy related to the health care of trans persons. It is therefore urgent to amend the National Health Care Strategy to ensure the level of health care for not just LGBTIQ persons, but particularly for trans and intersex persons as recommended by the World Professional Association for Transgender Health based on their guidelines Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People¹⁵⁷.

adoptive parents, and professional family caretakers. These services are, unlike the *mock* “Social Center”, provided by state-approved public servants and professionals, such as psychologists, social workers, sociologists and lawyers.

¹⁵⁷ Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, World Professional Association for Transgender Health (WPATH): <https://www.wpath.org/publications/soc>

2.8. Housing

The Anti-Discrimination Act prohibits discrimination based on sexual orientation, gender identity and gender expression in housing. The Act applies to all state and public bodies, legal persons with public authority and private/legal persons. In Article 8, the Act explicitly lists 10 areas where discrimination is especially prohibited, including housing (Paragraph 6). However, discrimination of LGBT persons and especially same-sex couples in access to housing market exists, based on several reports of discrimination and/or harassment to Zagreb Pride. Awareness in LGBT community exist that expressing LGBT identity openly might lead to landlords not leasing the apartment. Out of 4 reports of discrimination only one civil lawsuit concerning discrimination pertaining to housing based on sexual orientation was filed before the Zagreb Municipal Court¹⁵⁸.

The applicant, in a de facto same-sex relationship, decided to rent a flat she had previously viewed with her same-sex partner. The landlord asked questions regarding the sexual orientation of the applicant, and once her homosexuality was acknowledged, refused to rent the flat. The applicant claimed that she was directly discriminated against because of her sexual orientation. In 2014, Zagreb Municipality Court ruled that the applicant was discriminated against and ordered the defendant to pay compensation of 5000 HRK. In 2016, Zagreb County Court in the second instance ruling dismissed the first instance verdict and ordered the proceedings to be repeated.

In addition, there **were no measures taken by any public body to raise awareness of the landlords or people who seek apartments on existing legislation prohibiting discrimination in housing.**

Public housing is under local administration authority and it is generally limited to all. LGBTIQ persons or any specific vulnerable group of LGBTIQ people are not listed under priority demographic for public housing in Zagreb as well as other bigger cities. Housing market is generally an unregulated area, the existing legislation remains unenforced and many people, especially students and young families, live in leased apartments without a legal contract. The exact number of such cases is unknown and we found no research or reports about this topic.

In conclusion, legal regulations pertaining to the area of housing and housing rentals are poorly developed, inadequately regulated and existing legislations are not enforced. It will take a long time for discrimination free housing to be a reality for LGBTQ persons.

¹⁵⁸ Municipal Civil Court Zagreb, T. v. B., no. Pn-4727/2012

2.9. Sports

No specific measures or campaigns to raise awareness have been introduced to tackle discrimination on grounds of sexual orientation or gender identity in sports or in connection to sports events. It is difficult to accurately estimate how unfortunate the position of LGBT persons in sport in Croatia is due to the lack of research on LGBT persons and sports. There is no strategy, measure nor policy aimed at ensuring greater visibility and inclusion of LGBT persons in sports or reducing discrimination and homophobic or transphobic hate speech on sporting events, especially at football matches. In 2016, a State Office for Sport was established within the Ministry of Science and Education, with the aim of ensuring the long-term development of sport and to encouraging sport for the purpose of health and recreation, especially among children and young people. Zagreb Pride's inquiry from the State Office for Sport, about the existence of a plan to develop measures to reduce the prejudice and discrimination of LGBT persons in access to sports, especially related to hate speech against LGBT persons during sports events, remained unanswered¹⁵⁹.

Sport in the Republic of Croatia must be accessible to all, regardless of sex and sexual orientation. This is stipulated by the Article 1 of the Sports Act¹⁶⁰, while the Anti-Discrimination Act forbids all discrimination based on sex, sexual orientation, gender identity and gender expression in the field of sport (Article 8). The Anti-Discrimination Act also states that access to sport may be limited for only one or primarily one sex or persons with disabilities, which is considered to be an exemption from discrimination (Article 9, Paragraph 7). Despite anti-discrimination provisions, LGBT persons in professional sports are invisible, while only in the field of amateur and semi-amateur sports there is a noticeable increased involvement and visibility of LGBT persons.

The sports environment for LGBT persons is generally homophobic and transphobic. To date, no professional athlete has ever publicly identified as a LGBT person. The worrying homophobic hate speech is omnipresent at sports events, and especially as a part of football cheering, as reported by the International Football against Racism in Europe (FARE)¹⁶¹. Despite that, the increasing involvement and visibility of LGBT persons is noticeable in the field of amateur and semi-amateur sports. There are two sports associations of LGBT amateurs - Queer Sport Split and qSPORT from Zagreb. The Football Club Zagreb 041 and the group of sports fans White Angels (WAZ) in their public presentations consistently include the fight against homophobia¹⁶².

¹⁵⁹ The request was sent via e-mail on April 27, 2018, and a reminder on June 1, 2018.

¹⁶⁰ Sports Act (OG 71/2006, 150/2008, 124/2010, 124/2011, 86/2012, 94/2013, 85/2015, 19/2016)

¹⁶¹ 17 May 2015 – First Croatian Football League: Osijek v Istra 1961, a group of Osijek supporters chanted xenophobic, homophobic and anti-Roma chants towards the general public and the match referees.

<http://farenet.org/news/incidents-list-reported-to-fare-during-may-2015/>

06 March 2017 – Croatian 1 HNL: FC Osijek v CFC Hajduk, Ultra fans of HNK Hajduk, Torcida, chanted homophobic remarks at the opponents. Ultra fans of FC Osijek, Cohort, chanted homophobic remarks at the opponents.

<http://farenet.org/news/incidents-list-reported-fare-march-2017>

06 October 2017 – FIFA World Cup Qualifier: Croatia v Finland, A group of Croatian fans sang homophobic chants during the match. A report was sent to FIFA for action. <http://farenet.org/news/incidents-list-reported-fare-october-2017>

¹⁶² A. Hodges (2016) *White Angels Zagreb: Combating Homophobia as 'Rural Primitivism'*:

<https://books.google.com/books?id=AZ83DQAAQBAJ&lpg=PA191&ots=Vw9yIKpNyQ&dq=White%20Angels%20Zagreb%3A%20Combating%20Homophobia%20as%20%E2%80%9CRural%20Primitivism%E2%80%9D&pg=PA191#v=onepage&q=White%20Angels%20Zagreb:%20Combating%20Homophobia%20as%20%E2%80%9CRural%20Primitivism%E2%80%9D&f=false>

Discrimination of LGBT persons in access to sports, more specifically football, is evident through two class actions brought against the highest officials in Croatian football. These are the first and only legal complaints in the Republic of Croatia for discrimination against LGBT persons in the field of sport. Namely, at the end of 2010, Zagreb Pride, Lesbian Organization Rijeka-Lori, Domino and Center for Peace Studies had submitted two class actions for discrimination based on sexual orientation to the County Court in Zagreb.

One lawsuit was filed against Vlatko Marković, president of the Croatian Football Federation at the time and the other against Zdravko Mamić, executive vice-president of Zagreb Football Club Dinamo at the time, for statements both had given to the media in which they stated that a homosexual person could not be a member of the Croatian Football Team. In the first instance, both class actions were rejected by the County Court in Zagreb, stating that Mamić and Marković were entitled to a "value judgement" i.e. that they did not personally choose members of the national football team as part of their function. In the appeal process, the Supreme Court of the Republic of Croatia accepted complaints against Marković, and established discrimination. Based on the judgement, the Court ordered Vlatko Marković to pay for publishing of the verdict and apology to LGBT persons¹⁶³. At the same time, the appeal was rejected by the Supreme Court against Mamić. Since statements made by Marković and Mamić were almost identical, and the highest court in the Republic of Croatia ruled differently in these two cases, a request for revision was filed. The revision decision was issued on June 17, 2015, and it reversed the Supreme Court judgment from April 18, 2012 and the County Court in Zagreb from March 24, 2011, and established discrimination against LGBT persons by Mamić in his statement from November 2010. The judgement ordering an apology from Zdravko Mamić was announced in early 2016¹⁶⁴. These judgments of the highest court represent a confirmation of the protection against discrimination of all minorities and vulnerable groups in the Republic of Croatia, especially in the field of sports where minority groups are most often exposed to open hate speech, exclusion and various forms of harassment.

In conclusion, it is evident that important changes in sports policies in the Republic of Croatia are needed. They should stem from the higher institutions, through professional and amateur sport to the cheering environment at sports events so that the sport truly becomes accessible and inclusive for LGBTIQ persons, both athletes, as well as fans.

¹⁶³ IN CROATIAN: Judgement by the Supreme Court in Vlatko Marković case: <http://www.prs.hr/attachments/article/531/isprikaVMarkovica.pdf>

¹⁶⁴ IN CROATIAN: Judgement by the Supreme Court in Zdravko Mamić case: <http://www.antidiskriminacija.com/wp-content/uploads/2016/07/Mamic-isprika-presuda.pdf>

2.10. Right to seek asylum

Well-founded fear of persecution based on sexual orientation and gender identity is recognized as valid ground for granting the status of asylum or subsidiarity protection under Act on International and Temporary Protection¹⁶⁵, which replaced Asylum Act¹⁶⁶ on July 1, 2015. The Act on International and Temporary Protections in the Article 22. Paragraph 5 classifies both sexual orientation and gender identity as characteristics which cannot be changed or are of particular importance to a personal identity of conciseness, that cannot be renounced. These characteristics must be taken into consideration when deciding on the principle of prohibition of expulsion or return (Article 6).

Act on International and Temporary Protection	
<p style="text-align: center;">Article 6</p> <p>(1) <i>It is forbidden to expel or in any way return a third-country national or stateless person to a country:</i></p> <ul style="list-style-type: none"> - <i>in which his/her life or liberty would be threatened on account of his/her race, religious or national affiliation, membership of a particular social group or due to his/her political opinion; or</i> - <i>in which they could be subjected to torture, inhuman or degrading treatment; or</i> - <i>which could extradite him/her to another country, whereby the principle referred to in</i> - <i>indents 1 and 2 of this paragraph would be undermined.</i> 	<p style="text-align: center;">Article 22</p> <p>5. a specific social group, <i>in particular including members who share innate characteristics or a common background that cannot be changed, or characteristics or beliefs that are so fundamental to identity or conscience that these persons should not be forced to renounce them, and where that group has a distinct identity in their country of origin because it is perceived as being different by the surrounding society.</i></p> <p><i>Depending on the circumstances in the country of origin, a particular social group may also include a group based on the common characteristics of sexual orientation. Sexual orientation cannot be deemed to include acts considered to be criminal pursuant to the legislation of the Republic of Croatia. Aspects related to gender, including gender identity, shall be given due consideration for the purpose of determining membership of a specific social group or identifying the characteristics of such a group</i></p>

Only 481 persons have been granted international protection in Croatia so far¹⁶⁷, while on the December 31, 2017 there were 1887 more refugees who have officially requested an international protection in Croatia, mostly the citizens from Afghanistan (617), Pakistan (225), Syria (215) i Turkey (193)¹⁶⁸. There are no available records on how many people received international protection based on the applicant's sexual orientation and/or gender identity.

¹⁶⁵ Act on International and Temporary Protection (OG 70/2015): <http://www.refworld.org/docid/4e8044fd2.html>

¹⁶⁶ Asylum Act (OG 79/2007, 88/2010, 143/2013) – **not enforced since July 1, 2015**

¹⁶⁷ Written information received from the Ministry of Interior on January 15, 2018.

¹⁶⁸ In CROATIAN: Statistički pokazatelji tražitelja međunarodne zaštite do 31. 12. 2018., Ministarstvo unutarnjih poslova:

http://stari.mup.hr/UserDocImages/statistika/2018/Trazitelji%20medjunarodne%20zastite/Statisticki%20podaci_azil%202017.pdf

Zagreb Pride has assisted and monitored 4 cases of LGBT asylum requests. Even though, **no special legal measures exist that would ensure that asylum request may be turned down on the ground that the claimant can escape persecution in the country of origin by keeping their sexual orientation and gender identity secret**, we have found no indication that such practice exists. In addition, we have asked other civil society organizations, such as Center for Peace Studies Zagreb (CMS), who also found no evidence that LGBT asylum requests have been denied on the ground of hiding identity, however, they have, similar to Zagreb Pride, documented several cases where claimants were asked why they have not chosen to request asylum in a country closer to their country of origin, which they considered safer for LGBTIQ asylum seekers (namely South Africa). However, this has not affected their claim for asylum. By monitoring these 4 cases we also witnessed that inadequate translation is provided to asylum seekers during the interviews. We have also indications that the police officers who processed these requests do not possess sufficient knowledge on sexual orientation and gender identity in general.

Legal provisions oblige the Republic of Croatia to ensure that asylum seekers are not sent back to a country where their life or freedom would be treated because of their sexual orientation and gender identity (Article 6 of the Act on International and Temporary Protections in combination with the Article 22 of the same Act), **however**, in 2016 Minister of Interior, Vlaho Orepić, has signed a ministries order called the List of Safe Countries of Origin for International Protection Procedures¹⁶⁹, which includes at **least 3 countries listed which criminalize same-sex activities**¹⁷⁰. These are: Algeria, Morocco, and Tunisia. Other 7 countries listed as “safe countries of origin” are in alignment with the recommendations of the European Commission¹⁷¹.

In conclusion, even though the legal framework pertaining to right to seek asylum is satisfactory at this point, we have little indications about the implementation and general overview of the rights of asylum seekers and people living under international protection in Croatia. There are no available records on how many asylums have been granted based on the applicant’s sexual orientation and/or gender identity, we do not know anything about specific needs of LGBTIQ asylum seekers and refugees under international protection, including their access to trans specific health services or their general safety.

¹⁶⁹ List of Safe Countries of Origin for International Protection Procedures (OG 45/2016),

¹⁷⁰ State-Sponsored Homophobia, ILGA – the International Lesbian, Gay, Bisexual, Trans and Intersex Association: https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf

¹⁷¹ An EU ‘Safe Countries of Origin’ List: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/2_eu_safe_countries_of_origin_en.pdf

2.11. National Human Rights Structures

National Human Rights Structures (NHRS) of the Republic of Croatia are clearly mandated to address discrimination on grounds of sexual orientation and gender identity. NHRS are called ombudspersons who are independent public bodies appointed by the Croatian Parliament in the qualified majority vote for a mandate of 8 years, with a possibility of re-election for another mandate. Ombudspersons report to the Parliament once a year.

According to the Constitution of the Republic of Croatia, the Peoples' Ombudsperson and other commissioners of the Croatian Parliament ("special ombudspersons") are responsible for the promotion and protection of human rights and fundamental freedoms and they enjoy the same immunity as deputies in the Croatian Parliament (Article 93). Special ombudspersons are: the Ombudsperson for Gender Equality, the Ombudsperson for Children and the Ombudsperson for Persons with Disabilities. According to Gender Equality Act, all complaints for discrimination based on sex/gender, family or marital status, sexual orientation and pregnancy and maternal rights fall under jurisdiction of the Ombudsperson for Gender Equality (Art 6 and 19). However, based on mutual agreement with the Peoples' Ombudsperson, discrimination on gender identity/expression also falls under jurisdiction to Gender Equality Ombudsperson and this is evident in their annual reports. **Therefore, all complaints for discrimination based on sexual orientation and gender identity submitted to Peoples' Ombudsperson, or other special ombudspersons, are forwarded to Gender Equality Ombudsperson.**

In scope of their work, Ombudsperson for Gender Equality is under obligation to (Art. 19 – 23):

1. Receive reports of discrimination from all natural and legal persons and examine individual complaints, e.g. determine occurrence of discrimination.
2. Provide necessary information to persons that filed complaints.
3. Participate in court proceedings as interveners.
4. Warn the public about occurrences of discrimination.
5. Conduct mediation to reach out-of-court-settlement, if possible.
6. File criminal charges to discrimination cases to the State Attorney's Office.
7. Collect and analyze statistical data on discrimination cases.
8. Inform the Croatian Parliament on the occurrences of discrimination annually, or extraordinarily when required. Annual reports in English language are also available: <http://www.prs.hr/index.php/english/annual-reports>
9. Conduct surveys concerning discrimination.
10. Give opinions and recommendations, suggest legal and strategic solutions to beneficiaries but also to public bodies.

In conclusion, the Ombudsperson for Gender Equality does exercise their authority to the most extent - takes part in court proceedings as intervener, speaks out in support of the rights of LGBTQ persons frequently and warns public or private bodies and natural persons on the occurrence of discrimination while providing legal advice to the victims of such discrimination. However, particular political pressure on some Ombudspersons was evident since 2015 election and continues to this day. The Croatian Parliament, in an unprecedented act, in July 2017 dismissed from the office the Children's Ombudsperson during the 2nd year of their 8-year long mandate¹⁷²¹⁷³¹⁷⁴. In addition, the parliamentary majority also voted to reject the annual reports of

¹⁷² Statement of the Commissioner for Human Rights: Croatian government should reconsider the draft law on the Ombudsman for Children: <https://www.coe.int/en/web/commissioner/-/croatian-government-should-reconsider-the-draft-law-on-the-ombudsman-for-children>

both the People's Ombudsperson and Children's' Ombudsperson¹⁷⁵ in 2016 which, which can politically be interpreted as a vote of non-confidence. This already has a significant consequence as irrevocably undermines the independence of all NHRSSs. Croatian Government as well as leading political forces in Croatia should be warned against doing such actions that intimidate and undermine the work of independent public bodies for human rights protection.

¹⁷³ Necessity to ensure independence of Ombudsman for Children; People's Ombudsperson, July 10, 2017: <http://ombudsman.hr/en/all-news/news-article/1126-necessity-to-ensure-independence-of-ombudsman-for-children>

¹⁷⁴ Human Rights House Zagreb - Human Rights In Croatia: Overview Of 2017, please look under Children's Rights #144: http://www.kucaljudskihprava.hr/wp-content/uploads/2018/04/KLJP_PregledStanja_ENGWeb.pdf

¹⁷⁵ IN CROATIAN: Nakon pučke pravobraniteljice, Sabor nije podržao ni izvješće pravobraniteljice za djecu, Tea Romić, Večernji list, June 10, 2016: <https://www.vecernji.hr/vijesti/nakon-pucke-pravobraniteljice-sabor-nije-podrzao-ni-izvjesce-pravobraniteljice-za-djecu-1091230>

2.12. Discrimination on multiple grounds

Discrimination on multiple grounds, or multiple discrimination is defined under section of “More serious forms of discrimination” of the Anti-Discrimination Act (Art. 6) as discrimination against a certain person on more than one of the 23 grounds referred to in the Act, including, sex/gender, sexual orientation and gender identity/expression. In addition, the Act explicitly mentions that multiple discrimination, as well other forms of discrimination under section “more serious forms of discrimination” must be taken into consideration when court is determining the amount of the compensation for non-proprietary damage and when deciding about the fine for misdemeanours defined by the Act. We have found no examples of court proceedings for the multiple discrimination that includes sexual orientation or gender identity.

Existing and planned national policies on human rights and gender equality do not address any group affected by the multiple discrimination that includes sexual orientation and gender identity and gender expression as one of the grounds. No specific measures have been put in place to tackle discrimination against LGBTIQ women.

The available research on LGBTIQ persons only address multiple discrimination with regards to sexual orientation and gender identity in combination with sex/gender. We have identified two most significant issues that should be addressed as measures in the national human rights and gender equality policies.

1. LGBTIQ women experience statistically significantly more sexual violence than GBTIQ men, according to the 2013 survey conducted by Zagreb Pride and partners¹⁷⁶.
2. The research on domestic and violence against LBT women from 2015¹⁷⁷ conducted by Zagreb Pride and partners showed that trans women are affected by a possibility from exclusion from safe places for women victims of domestic violence through indirect discrimination. More precisely, the admission to public and or publicly funded shelters for women victims of violence are conditioned by reporting the violence to the police, which many trans women, particularly sex workers, often refuse to do, due to their distrust in the police and credible fear of repeated transphobia. The research on LGBTI asylum seekers, refugees, religious minorities, sex workers or persons with disabilities has not yet been conducted.

LGBTQ sex workers

The research on domestic and violence against LBT women from 2015¹⁷⁸ conducted by Zagreb Pride and partners included one trans woman who worked as a sex worker. In an interview, she indicated that she was a victim of violence from a male person on whom she was economically dependent. The abuser also threatened that he would stop supporting her, throw her out of the house, disseminate sex tapes as well as murder and harm her family if she discontinued working as a sex worker. He kept her documents, did not let her leave the house, and she could not negotiate about the choice of her clients. He only stopped forcing

¹⁷⁶ „Brutal Reality: A Research Study Investigating Anti-LGBTIQ Violence, Discrimination, and Hate Crime in Croatia, 2013 (p.88): http://www.zagreb-pride.net/new/wp-content/uploads/2016/01/brutalna_stvarnost_en_web.pdf

¹⁷⁷ Domestic and Dating Violence Against LGBTI Women in the EU, 2015 (p.71): <https://www.bleedinglove.eu/domestic-and-dating-violence-against-lbt-women-in-the-eu/>

¹⁷⁸ Domestic and Dating Violence Against LGBTI Women in the EU, 2015: <https://www.bleedinglove.eu/domestic-and-dating-violence-against-lbt-women-in-the-eu/>

her to sex work when she said she was in love with him and they started a relationship, which she consented to in order to stop being exploited as a sex worker. She managed to escape the relationship when her abuser was arrested and convicted for other reasons. She was denied an entry to multiple women's shelters for not reporting an "abusive partner" to the police. She would have reported the abuser to the police but she feared she did not have sufficient evidence. The same woman also experienced harassment from her father, a medical doctor, employers, from another partner, and was raped by an unknown person in a night club.

In conclusion, working directly with LGBTIQ persons in providing legal and psycho-social support, we have identified that the situation with especially vulnerable groups of LGBTIQ people is very unfavorable and that marginalization is very high.