

**THE PLATFORM OF HUMAN RIGHTS
ORGANISATIONS IN CROATIA**
FOR CROATIA GOVERNED BY THE RULE OF LAW!



Zagreb, March 6, 2013

**Civil Society Assessment Report
of the Croatian Government Performance in view of 112 Requests**

Introduction

Platform 112 is a coalition of sixty seven NGOs¹ involved in human rights protection, democratisation, peace-building, fight against corruption and protection of public resources, namely the environment, who have specified their 112 requests, addressed to all political options prior to the parliamentary elections, in which they have defined priorities and specific measures for **Croatia in which the rule of law provides the basis for individual, institutional and political action. We demand and expect consistency and political accountability of the new Government, including all other political actors and institutions, in order to ensure realistic and permanent improvements in five high-priority and interconnected areas:**

- (1) stable, responsible and democratic government institutions and equal access to justice
- (2) quality of democracy
- (3) fight against corruption and public interest
- (4) equality and dignity of all people
- (5) legacy of war, confronting the past and peace- building.

With this report we set forth our assessment of the performance of the new Government in respect of our 112 requests, during the first year of its mandate, from December 2012 to the mid February 2013². Along with the general evaluation, we focus on positive and negative changes concerning the specific issues by Platform 112. Civil society organisations gathered under Platform 112 will continue to – individually and jointly – with all of their advocacy and research activities, monitor the government performance and influence fulfilment of requests submitted by Platform 112.

We would like to point out that Platform 112 has been actively involved in monitoring the obligations arising from the EU accession negotiations, and that this Report, as well as our earlier statements, will be presented as a source of information to the European Commission, European Parliament and EU members states, with regard to fulfilment of the accession

¹ List of members of the Platform 112 coalition is provided in Annex 1 of this Report

² Requests submitted by Platform 112 are also available at www.kucaljudskihprava.hr

obligations, sustainability of reforms, and Croatia's capacity to act as a successful and responsible member state.

General assessment of the new Government performance during its first year in office

Going back to our evaluation of the new Government drafted in its first quarter, back in April 2012, we recognised the intention of positive changes in relation to one third of our requests. We were encouraged by announcements of an entirely new approach to several policies, namely in policy areas of education, reproductive rights, security and foreign policy. On the other hand, we have already spotted a lack of specific political decisions that would result in actual changes, especially with regard to the burning issues of those groups of citizens who have been most affected by the past two decades of war, privatisation robbery, social exclusion, discrimination, and economic crisis. While understanding the predominance of declarative over operational in these first months of the new Government, we have repeatedly emphasised that credibility could be affirmed only by timely political decisions and their implementation that involve and pay accounts to the citizens.

Now, in early February 2013, enough time has passed for us to be able to evaluate not only the words, but also the actions of the new Government. **Unfortunately, the great shift away from partitocracy of the former government, lead by double standards and short-term gains, towards the democratic governance based on the rule of law, social justice and sustainable development, failed to occur. Instead, the performance of the new Government has been featured by inconsistencies of values, programmes and capability to implement policies. Those positive changes that took place leave a bitter aftertaste due to a lack of systemic change and comprehensive vision.**

Limited positive changes introduced by this Government, relate to the strengthening of transparency and, to a degree, greater openness of the government institutions and reinforcing the role of citizens in political decision-making. **Positive changes corresponding to the requests made by Platform 112 refer to the following:**

- ✓ adopting the new Act on the Right of Access to Information, which has finally introduced significant improvements into the institutional framework for exercise and protection of this fundamental right, crucial for political participation of citizens and public control over authorities. The process of drafting the Act was based on true cooperation between the state administration and civil society organisations, while the final legislative solution entirely reflects the requests made by Platform 112;
- ✓ wider, although far from full, implementation of the Code of Practice on Public Consultation in Drafting Legal Regulations and a regular government obligation to report on conducted consultation;
- ✓ cancelling restrictions on public assembly in front of the Government buildings on St. Mark's Square;
- ✓ partner implementation of the Action Plan entitled Open Government Partnership, with focus on fiscal transparency, public consultations and right of access to information, encouraging institutional innovations;
- ✓ sorting the Electoral Register, the earlier weak point of the electoral system, in a way that would prevent the misuse of electoral rights, eliminate distrust in electoral fairness and ensure the voting right to previously discriminated persons without legal capacity;
- ✓ preparations for introducing the education for democratic citizenship into primary and secondary education systems, through pilot projects and revision of the school curriculum in cooperation with civil society organisations;
- ✓ resolving the management crisis on the public television and initiating the new media policy, which should be ensure protection of public interest in media and journalism.

- ✓ Opening the Parliament to the citizens and civil society organisations, evident in opportunities to organise round tables and thematic discussions on the Parliament premises, and by increased, but still not completed, number of parliamentary commissions with appointed external members, and in establishing an independent service for citizens.

Along with positive changes towards greater openness of government institutions, this Government has made some important steps forward in the area of human rights. This caused a loud disapproval in line with the existing ideological, value-based cleavages and with a classic mechanism of political mobilisation used by conservative political options, including the Catholic Church and the part of civil society organised around it, activated by a fantasy about threats against the dominant collective identities - religious - catholic, ethnic - Croatian or gender identity - patriarchal heterosexual (which in itself brings into question the vitality of these traditional identities, still majoritarian in terms of numbers). **In spite of the great pressure, the government kept heading in a direction of progressive human rights policies:**

- ✓ New Law on Medically Assisted Insemination has been adopted, which essentially changes the existing discriminatory and restrictive regulations by enabling women to exercise their right to decide about their bodies and reproduction, free of discrimination, coercion and violence;
- ✓ The Ministry of Science, Education and Sports expressed readiness to introduce sexual education in schools, in accordance with professional standards, and within the scope of healthcare education, without giving in to pressure imposed by religious communities;
- ✓ Persons completely deprived of legal capacity were finally given right to exercise their voting rights, since the new Electoral Register Law presents no restrictions in that sense. This shifts Croatia into the group of leading countries when it comes to ensuring political participation of disabled persons but also generates responsibility for education of all participants in the electoral process on exercising voters' rights and prevention of discrimination and abuse;
- ✓ For the first time, the government has defined the foreign policy priorities, referring to the promotion and protection of human rights and peace-building, including the international development aid and reinforcing the civilian, versus the military component of the international missions that Croatia participates in (Afghanistan). The Ministry of Foreign Affairs and European Affairs expressed readiness for cooperation with civil society organisations with regard to developing the strategy and implementation of the international development aid, but also in relation to organising public debates on Croatian foreign policy;

However, these positive changes are in sharp contrast with a lack of specific improvements in terms of the status and rights of the groups of citizens who suffered most due to losses and injustice caused by the war, or due to a systematic discrimination, privatisation, and economic crisis. If we think of the pre-election promises, and the earlier actions of the parties that now form the new Government, the absence of real steps forward for the benefit of those in greatest need, represents a huge disappointment.

- It is beyond comprehension that even a year after the change of government the free legal aid system remains unavailable for the most of those who require legal services, and cannot afford them, while the most recent proposals of changes to the law do not resolve the key problems of the existing system.
- It is getting harder to process war crimes in Croatia due to a lack of conducive environment for testifying against perpetrators „from our side“. The interest of the public - both domestic and international - for the problems of war crimes is decreasing. Hence, we are concerned that the perpetrators and responsible persons in commanding positions will remain unpunished.

- We cannot think of a single reason as to why the government failed to reach a decision by which the RoC waives its rights to charge the *litigation costs from all the plaintiffs who failed in seeking compensation for damage due to death of a close person or in seeking monetary compensation due to terrorist acts*. With this decision, the government would end the shameful situation in which the state damages not only dignity, but also the very existence of the families of the civilian victims of war. Even though in July 2012 the Government passed a Decree for the waving of fees for the category of poorest plaintiffs, the urgent problem has not been resolved in an adequate and comprehensive manner. At this point there is not a single legally valid decision enacted based on the Decree.
- The process of return, which is largely dependent on housing arrangements, is standing still instead of being intensified in this period. An indicator of the poor performance, turning into negligence, is the way of handling the unused budget funds for housing arrangements in 2011. These funds were represented as savings, in spite of the large number of unprocessed applications for housing support. Despite of numerous promises made at the highest government level, there is no positive resolution of the cases of *unauthorised property investment, that is, the return of property and compensation of damage to returnees*, including the high profile case of Milica Miladinović, who was unable to resolve her housing problem even after 12 years, while the proceedings for compensation of damages against her are still ongoing.
- The trend is negative and there are no new developments with regard to the employment of the national minority members - the key problem faced by the national minorities (especially the Serbian and Roma people) and the main obstacle for sustainable return. According to Government's Report on Implementation of the Action Plan of Providing Employment for National Minority Members, the number of national minority employees in state administration dropped by 10%, while at the same time, almost half of persons who were laid off from the state administration in 2011 were the national minority members. The field research conducted by the Serbian Democratic Forum reveals the bad practice in local communities with a significant ratio of Serbian population, where local governments employ Croatian nationals from other towns and municipalities, at the expense of the local Serbs. Such practice causes damage to the state budget and economic and demographic prospects of these areas, while also hindering sustainable return of refugees and displaced persons.

We have reached the conclusion that inconsistency of policies and their implementation represents the key weakness of this Government, minimising the significance of all of its positive actions. The political agenda of the Kukuriku coalition and their manner of handling different policy areas has proved to be flexible enough to embrace - or justify - some radical contradictions. Several examples show that the Code on Consultations is in some departments, such as the economy or the social welfare system, avoided or treated as a cover for the Government's to justify its own solutions, instead of ensuring citizen participation. The recent examples were those of drafting the Strategic Investment Act the Social Welfare Act.

The same government that has made certain improvements with regard to the citizen access to political decision-making, at the same time refuses to revise the referendum legislation. The legal changes are necessary in order to enable the citizens to initiate a referendum, not only on paper, but also in reality, as granted by the Constitution. In practice, the high threshold of 10% of signatures of the entire voting population, and extremely short time available to collect those signatures, prevents the citizens from exercising this right. The excuse stating that the Constitution should not be revised any time soon, does not sound credible if we take into account the fact that the most recent changes to the Constitution have been motivated by the wish to facilitate the referendum on the EU accession.

An extreme example of inconsistency is the department of education, where the same new minister insists on introducing progressive youth programme in the area of education for

citizenship, human rights and healthcare, but equally strongly supports the recycling of the neo-liberal model of higher education and science introduced by the HDZ. While in the first case, the civil society organisations and experts are welcome partners, in the latter case, the criticism and suggestions made by the academic community members are largely ignored. Moreover, the education budget share has been radically reduced, while cutting the civil service expenses has mostly affected the weakest link – high school teachers. We are also worried by the complete ignorance of the Ministry of Science, Education and Sports of the obligation to create inclusive educational models in accordance with the obligations arising from the Convention on the Rights of Persons with Disabilities.

We fear that inconsistency will be manifested even more strongly during the rest of the mandate, especially in relation to the challenge of fighting the economic crisis and encouraging long-term development. This Government has not yet defined its development strategy with regard to these issues. We are worried by the fact that the salvation is seen in short-term budgetary savings and profits made by attracting private investment without clearly defined development plans and strategically designed role of the public sector as a generator of social and economic development. From the perspective of the rule of law and sustainable development, we are worried by the focus on exploitation and privatisation of natural and cultural resources, as well as by the lack of more innovative solutions based on knowledge, and not on the resource itself. Such model of “strategic development” is followed by the exclusion of citizens, and even the Parliament, from making decisions on the economic development strategy, as well as on the specific projects, which are exactly the type of issues with long-term consequences for the public goods, economy and social relations. In a democratic system, such matters must be decided by the sovereign, i.e. the people and its directly elected representatives.

After a year, we find that readiness and capacity of this Government to conduct reforms that will renew democracy and the rule of law, and provide sustainable development to the Croatian society, is insufficient and unsatisfactory. The most defeating fact is the one showing that the least progress was made in improvement of the status and opportunities of those who have been most affected by injustices and violence over the past two decades of transition: the civilian victims of war and the population of the war-affected areas, national minorities, namely the Serbs, the workers of the economy destroyed by privatisation robbery, youth without chances of independence, but also their impoverished teachers in a confusing and underpaid education system.

However, as the politicians themselves often say, the mandate lasts for four years. The end of the first quarter of this mandate marks the high time for the turn expected with the change of the former government, who bears the biggest responsibility for a tragic situation in Croatian society and a lack of real effects of reforms undertaken mostly for political gain and EU, and not in the interest of Croatian citizens. Otherwise, we fear that we are on a verge of new, fatal cycle of dissolving the citizen trust in the capacity of this Government, or any other authority, to rule in their best interest. We also fear that the conflict between the citizens and political elites might escalate further. It is dangerous when the government is not aware of the range of dissatisfaction, and we hope that this report will be perceived as an invitation to bear responsibility for the near future and for making changes here and now.

We expect the government to make the turn that will manifest itself in finally accepting democracy, rule of law, human rights protection and promotion of public interest, as a foundation of every policy, especially the one referring to development, and not as its collateral damage. Therefore, we demand of the government to rapidly focus on the systematic reforms aiming to reinforce, and not weaken the public sector capacities and capacities of the whole society for democratic development. We expect them to eliminate and not deepen social injustices and inequalities generated over the past twenty years of the HDZ rule.

Platform 112 invites and requests from the authorities on the level of the Croatian Government and Parliament to make a turn towards democracy, rule of law and sustainable development, and to urgently, before entering the EU, do the following:

1. **To correct the biggest injustices arising from the war and the transition:**
 - To urgently reverse the negative trend in return of the Serbian refugees, and especially to eliminate the backlog in resolving housing issues and issues of national minority employment in the civil service;
 - To finally resolve the problem of tenant rights, which threatens the existence of thousands of families, and brings Croatia into a situation of violating the provisions of international treaties, which negatively effects the budget;
 - To establish a system of compensating the civilian victims of war, including urgent elimination of the issue concerning the litigation charges;
 - To change the Free Legal Aid Act by establishing clear criteria and effective procedures for providing free legal aid to a wide circle of users, who are in need of such aid;
 - To ensure equity and efficiency of the war crime trials, especially in terms of regional cooperation and witness protection system.
2. **To reject the existing approach of encouraging investment on a short-term basis by introducing a parallel system of shortcuts and incentives for privileged private investors**, including a lack of through assessment of the expected long-term effects on administration, society, economy, natural and cultural goods.
3. **To discuss publically and adopt the Croatian Sustainable Development Strategy** as an umbrella policy that will ensure balanced development of local communities, regions and the society as a whole, responsible use of public resources, economy primarily based on knowledge and innovation, and where particular economic interests would be subordinate rather than superior to public and social interests, while strategic decisions would be made in a transparent and democratic manner.
4. **To finally initiate the public administration reform in order to strengthen the management competencies and efficiency of the public sector**, by introducing a new human resource policy, strategic management and territorial restructuring, where the aim would not be savings, but the quality of public policies and public services.
5. **To ensure an efficient non-partisan supervision over the reforms arising from the accession negotiations in Chapter 23, which is in line with the critical issues of performance of the political system and public administration – prerequisites for success of any specific policy.** A new parliamentary body – *National Council for the Rule of Law and Protection of Public Interest* – would also include the civil society and expert public representatives, in order to prevent partisan overruling, and it would cooperate with the EU institutions as well. In this way, Croatia would acquire expert knowledge and good reputation in future pan-European initiatives of parallel supervision over the quality of policies (benchmarking) in the area of the rule of law, such as the one referring to the policy of fight against corruption, which is currently proposed by Viviane Reding, EU commissioner for justice. We strongly believe that Croatia, as a new EU member state, with its direct experience of demanding transformations, should be the leader in deepening the rule of law, democracy and human rights issues in the EU and the entire Europe.

Annex 1 – List of members of the Platform 112

Platform 112 is composed of the following organizations:

B.a.B.e., Centre for Education, Counseling and Research (CESI), Centre for LGBT Equality, Centre for Peace Studies (CMS), Centre for Peace, Nonviolence and Human Rights-Osijek, Documenta – Centre for Dealing with the Past, GONG, Human Rights House, Right to the City, Serb Democratic Forum, Transparency International Croatia, Association for Social Affirmation of People with Mental Disabilities - Sjaj, Association for Independent Media Culture, Association for Promoting Inclusion, Association for Promotion of Equal Possibilities, Association of Parents of Children with Special Needs "PUŽ", Association for Self-Advocacy, Association of Croatian Investigative Journalists and the Green Action.

Platform 112 is supported by following organizations:

Amnesty International Croatia, DEŠA – Dubrovnik, Humanitarian and peace organization, Ecological Society of Brod, Inclusive Support Centre IDEM, Centre for Civil Initiatives Poreč, Center for Peace, Legal Advice and Psychosocial Assistance Vukovar, Center for support and development of civil society DOLPHIN, Community Foundation Slagalica, Environmental Association Pan, Eco-eco Komin, Šolta Eco-Tourist Association, Eco-Zadar, Forum for Freedom in Education, Croatian Debate Society, Croatian Association for the Deafblind Persons Dodir, Croatian Guide Dog and Mobility Association, Croatian Association of the Blind, Iskorak – Sexual and gender minorities rights center, Coalition of associations Info zone, Coalition of Associations in Health Care, Coordination of Associations for Children, Krka Knin, KURZIV - Platform for Matters of Culture, Media and Society, Lesbian group Kontra, Life Quality Improvement Organization FLIGHT, MIRamiDA Centar Regional Peace building Exchange, Croatian Youth Network, Multimedia Institute, Peace group Oaza Beli Manastir, Civil Rights Project Sisak, Radio Mreža, Parents in Action, Delta Association, Fade in – Incredibly good institution, Alliance of tenants' associations of Croatia (SUSH), Social policy and inclusion (SPI), SOS Children's Village Croatia, The Association for help and education of mobbing victims, Association for protection of rights of irreligious people Protagora, Association for assistance to citizens with mental retardation of Međimurje County, Association for Nature, Environment and Sustainable Development Sunce, Association for promotion of human rights and media freedoms CENZURA PLUS, The Association for Civil Society Development SMART, Association for Human Rights protection and Humanitarian Activities "Dalmatian solidarity committee", Volunteers' Centre Zagreb, Green Istria, Green Osijek, Women's Room, Organization for Workers' Initiative and Democratization.