

Right to freedom of peaceful assembly

1. Legislative/institutional measures

Right to freedom of peaceful assembly is guaranteed by the Croatian constitution and its Article 42 which stipulates that all citizens shall be guaranteed the right to peaceful assembly and public protest. Subsequently, this means that the right to freedom of assembly enjoys constitutional protection in the Republic of Croatia. Right to freedom of peaceful assembly is further elaborated by the Public Assembly Act which specifies the concept of public assembly and the rights, obligations and responsibilities of those who organize and participate in public assembly. The right of everyone to public assembly is explicitly declared under the conditions stipulated in this law, wherein this law adheres to the constitutional provisions on the right to public assembly and also to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and it only stipulates those limitations to the right of public assembly which are necessary in democratic society to protect the freedoms and rights of others, legal order, public morality and health. Everyone, regardless of race, skin colour, national or social origin, political or other convictions, is entitled to public assembly to express and promote political, social and national convictions and objectives.

The recent example where the right to freedom of peaceful assembly has been adequately enjoyed is Zagreb Pride 2011. It is a march organized by the local NGO promoting the rights of sexual minorities, which was held in Zagreb in June 2011. It is example where the organizers have closely collaborated with the Ministry of Interior in preparation of the march, which resulted in no cases of violence. Additionally, it is important to stress that police officers have undergone a series of trainings on the issue of hate crime in recent years, and that this has contributed to the peaceful march.

2. In terms of positive legislative/institutional measures taken to protect peaceful protestors, including against agents provocateurs and/or counter-demonstrators, the Public assembly Act and its Article 14. Article stipulates that the Minister of the Interior may issue a decision on prohibition of the holding of peaceful assembly and public protest if the goals of an assembly are focused on calling for and incitement to war or to violence, national, racial or religious hatred or any form of intolerance. Additionally, the Penal Code and its Article 174. stipulate that whosoever publicly releases or disseminates ideas on superiority or inferiority of a race, ethnic or religious community, sex or nation or ideas on superiority or inferiority based on skin colour or sexual orientation or other characteristics for the purpose of inciting racial, religious, national or ethnic hatred or hatred based on skin colour, sexual orientation or other characteristics for the purpose of degradation shall be sentenced to prison for a term of three months to three years.
3. In terms of restrictions on the free exercise of the right to freedom of peaceful assembly the Public Assembly Act in its Article 14 defines cases when this right can be limited/restricted. Accordingly, Article 14 stipulates that the Minister of the Interior may issue a decision on prohibition of holding of peaceful assembly and public protest if: (1) it is not timely and properly reported, (2) it has been reported in areas where under this Act public assemblies may not be held, (3) the goals of the assembly are focused on calling for and incitement to war or to violence, national, racial or religious hatred or any form of intolerance, (4) there are reasons which point to the likelihood that holding of a public assembly may lead to the

immediate and actual danger of violence and other forms of serious disturbance of public peace and order.

Subsequently, it can be concluded that the Public assembly Act in the domain of possible restrictions to the enjoyment of the right to peaceful assembly follows constitutional norms and explicitly prescribes the obligation to determine specific “legitimate goals” of the restriction as well as the application of the principle of proportionality. Thus, it can be concluded that it is in line with the international human rights law, particularly European Convention on Human Rights and Fundamental Freedoms. Consequently, the Public Assembly Act prescribes in its Article 3 that the right to enjoyment of the right to free assembly can be limited only by this Act for the reasons to protect the freedoms and rights of others, the legal order, public morality and health.

In terms of spontaneous assemblies, the Public Assembly Act in its Article 4 defines what a peaceful assembly is and public protest. Subsequently, it states that any organized gathering of more than 20 people, which is held for reasons of public expression and promotion of political, social and ethnic beliefs and goals, is considered to be public assembly. Furthermore, Article 9 stipulates that peaceful assembly and public protest held in Zagreb, on the location of the square Trg Francuske Republike can take place without prior registration and it can be organized by anyone. Additionally, the same article stipulates that individual protest need not be reported.

4. In terms of positive legislative/institutional measures taken to ensure accountability for
 - a) Arbitrary restrictions to hold assemblies – As it has been already shown, restrictions on the enjoyment of the right to peaceful assembly are clearly defined by the Public Assembly Act and its Article 14. Additionally, the Article 28 defines that the Chief of Police Administration can make a decision to prohibit public assembly if: (1) it not timely and properly reported; (2) the organizer does not implement necessary measures; (3) it has been reported in areas not intended or appropriate for the maintenance of public events; (4) there are reasons based on the likelihood that the maintenance of public events can lead to direct and actual danger to the interests and safety of the Republic of Croatia and to violence and other forms of serious disturbance of public order, serious violations of public morality, or a serious threat to the environment and human health.
 - b) Arbitrary or excessive use of force by law enforcement officials against peaceful demonstrators – The Public Assembly Act in its Article 5 states that police authorities can apply coercive measures only when necessary and in a manner proportionate to the nature of the danger. Additionally, the Police Act in its Article 96 defines more serious breaches of police officials which include abuse of position in or outside the service or exceed of the powers in the service. Furthermore, the Act in Article 97 foresees the proceedings and decision of the Disciplinary Court for police official who are in a more serious breach of official duty.
 - c) Violence by agents provocateurs and/or counter demonstrators – In cases of violence by agents provocateurs and/or counter demonstrators the police can react and protect protestors at the peaceful assembly. Additionally, the amendments to the Criminal Code define hate crime as follows: “A hate crime is any crime specified under the Criminal Code committed out of hatred for another person based on such person’s race, skin colour, sex, sexual

orientation, language, religion, political or other conviction, national or social origin, property, birth, education, social status, age, health status or other characteristics.” Subsequently, a Task group for Monitoring Hate Crime Cases has been set up within the Office for Human rights, Government of the Republic of Croatia which has drafted the Protocol on Cases of Hate crime, adopted by the Government in April 2011. Subsequently, heightened attention is accorded to such crimes, and special records on such crimes are now compiled by the Ministry of interior, State Attorney Office, courts (criminal and misdemeanour) and the Ministry of Justice.

5. Positive legislative/institutional measures taken to build and strengthen the human rights capacity of administrative and law officials – With the aim of implementing of legislative and subordinate regulative, the Ministry of Interior, through its Police Academy, continually organizes trainings for police officers which include human rights issues. Thus, for example in September in 2010 there were educations for 162 police officers on the issue of hate crime.
6. One recent example where the right to freedom of peaceful assembly has not been properly implemented is Split Pride in 2011 which was organized in June in Split. It was a march for the rights of sexual minorities organized in Split. However, unlike in Zagreb, during this march there was a high number of counter-protestors who were calling on violence.

Subsequently, all state officials (Prime minister and President as well as Ombudsman and Gender Equality Ombudswoman) condemned the violence and hate speech during the march. There was training on the issue of hate crime based on the sexual orientation organized for police officers in Split conducted by an NGO. Also, a number of misdemeanour cases (65) were brought to the Misdemeanour court in Split. At the moment there are 24 cases where there were verdicts pronounced. Finally, Zagreb Pride as a reaction to Split Pride, was a peaceful march where the right to peaceful assembly was enjoyed.

Right to freedom of association

7. In the Republic of Croatia, the right to freedom of association is guaranteed by the Constitution of the Republic of Croatia which in its Article 43 stipulates that citizens shall be guaranteed the right to free association for the purposes of protection of their interests or promotion of social, economic, political, national, cultural and other convictions and objectives. For this purpose, citizens may freely form political parties, trade unions and other associations, join them or leave them. The right to free association shall be restricted by the prohibition of any violent threat to the democratic constitutional order and the independence, unity and territorial integrity of the Republic. Furthermore, this right is further elaborated in numerous Acts: the Associations Act, the Act on Foundations and Funds, the Institutions Act, the Humanitarian Act, the Act on the Croatian Red Cross, the Political Parties Act, the Fire Brigade Act, the Sports Act, the Labour Law, the Act on Legal Position of Religious Communities.

The Associations Act regulates the establishment and activities of associations as the most numerous types of civil society organizations in Croatia. The act elaborates the right of citizens guaranteed by the Constitution to associate in any form of free and voluntary union of a number of natural or legal persons, for the purpose of protection of their interests or the promotion of their human rights and

freedoms, and their ecological, humanitarian, informational, cultural, national, pro-natalist, educational, social, expert, sports, technical, medical, scientific or other convictions and objectives, without the intention of generating profit.

The Act on Foundations and Fund stipulates the manner of establishment and functioning of a specific type of civil society organisation – foundations, which are properties assigned to serve by themselves, or through their generated income, serve to the accomplishment of some generally beneficial or charitable purpose.

The Institutions Act regulates the establishment and activities of institutions as organisations to permanently perform activities related to education, science, culture, information, sport, physical education, technical culture, child care, health care, social welfare, care for the disabled and other activities, provided they are not performed for the purpose of generating profit. An institution may be established by citizens as natural persons, thus it can belong to civil society organisations, while public institutions are mostly established by the State or regional and local self-government units.

The Act on Humanitarian Assistance applies to associations, religious communities and other national and foreign non-profit legal persons, so-called “humanitarian organisations”, whose statutory objectives include the provision of humanitarian assistance. Humanitarian assistance, as defined by this Act, means collected material and financial goods, expert and lay psycho-social assistance (psychological help and help in social adaptation) and services provided for the socially handicapped under special regulations, services provided for the victims of natural and other catastrophes and individuals whose income does not exceed the level of the national poverty threshold.

Croatian Red Cross is a national, humanitarian and voluntary alliance of the leagues of county Red Cross societies' associations and associations of town and municipal Red Cross societies acting based on the principles of the international Red Cross and Red Crescent Movement enjoying a special protection and care of the Republic of Croatia. The task of the Croatian Red Cross is to achieve humanitarian goals and duties in the sphere of health care and improvement, social welfare, health and humanitarian education and it promotes the observance of international humanitarian law and human rights protection.

Political parties are, with their free foundation and permanent activity in the formation of citizens' political will, an expression of democratic multiparty system, which is one of the highest values of the constitutional system of the Republic of Croatia. With the establishment of political parties citizens are guaranteed the right free association for the purpose of protecting their interests or promoting their political, social, economic, national, cultural or other convictions and objectives. Political parties, as defined by this Act, are associations whose objectives are expressed in their programme and statute, aimed at creating and forming citizens' political will and at political activity.

Fire fighting activity is an expert and humanitarian activity of importance to the Republic of Croatia. This activity is performed by fire brigades, volunteer fire departments and fire-fighters' associations as expert and humanitarian organizations, which have a right to relieves and benefits according to regulations and which are established, function and cease to function in compliance with the provisions of the act regulating the establishment and functioning of associations.

In the Republic of Croatia the development of sports is stimulated by the construction and maintenance of sports facilities, education and training of professionals, scientific projects in the field of sports, economic measures, by

stimulating partnerships of governmental and nongovernmental organizations in sports and private entrepreneurship, and financing sports from state funds, local and regional self-government units and the City of Zagreb funds. Sport has to be equally available to everyone, notwithstanding their age, race, gender, sexual orientation, religion, nationality, social position, political or any other conviction.

The Labour Act regulates labour relations in the Republic of Croatia, provided that some other law or international agreement that was concluded and authorized in compliance with the Constitution and then published, does not stipulate otherwise.

The Labour Law is a general labour regulation stipulating fundamental employee rights and employer's obligations. On the labour market, associations are completely equal to other employers in all segments of labour regulations implementation and the implementation of other regulations defining employee rights and employers' obligations. The Labour Law, among other things, regulates the work of unions and employers' associations.

Church or other religious community under some other name is, for the purpose of the Act on Legal Position of Religious Communities, defined as a community of natural persons practicing their freedom to denomination with the equal public performance of religious ceremonies and other demonstrations of their faith, entered in the Register of Religious Communities of the Republic of Croatia. Hence, the Act on Legal Position of Religious Communities does not explicitly define religious communities as non-profit legal persons acting in the interest of general good, but it still contains provisions implying that type of religious communities' activities.

Additionally, it is important to state that there are three main institutions which operate in the capacity of institutional mechanisms: Office for Associations of the Government of the Republic of Croatia (1998), Council for the Development of Civil Society (2002) and the National Foundation for the Civil Society Development (2003).

8. The key Act which needs to be adhered in the cases of establishment of an association is the Associations Act which, as previously said, regulates the establishment, registration, legal and dissolution of associations as legal entities in the Republic of Croatia.

Association are any form of voluntary association of individuals or legal persons who, for the protection of their interests or for the protection of human rights and freedom, and humanitarian, informational, cultural, ethnic and national, educational, social, vocational, sporting, technical, medical, scientific and other beliefs and goals, and with no intention of making profit, are subjecting themselves to the rules governing the establishment and operation of this form of association. According to the Act, an association may be established by at least three founders. They have to register in the Register of Associations that is managed by the state offices in the units of local (regional) government and the City Department of General Administration of the City of Zagreb. The association hands in the request for registration to the Office in accordance with the headquarters of the association. The applicants submit: a report on the decisions of the Founding Assembly, the decision to initiate the procedure for registration of associations, statute of an association, the list of founders, names of persons authorized to represent an association, excerpt from the court registry or other legal entity for the founder of the association and the consent or approval of the

competent government authority to carry out certain activities, when this is prescribed by a special law as a condition for registration.

The request for registration is to be submitted within 3 months from the date of the decision to initiate the procedure for registration in the register. Within 30 days the decision on the registration of the association has to be made. Additionally, according to the Article 18 of the Act the association can be denied registration if its aims and activities are not in line with the constitution and legal provisions.

9. According to the abovementioned Act and its Article 28, the association can be suspended in the following cases: there is decision of the competent body on the dissolution of the association; cessation of the activities of the association, there is a court decision prohibiting its activities and bankruptcy. The reasons for the ban of the work of the association are the following: if its activities violently endangers the democratic constitutional order, independence, unity and territorial integrity of the Croatian, if it conducts other activities that are prohibited by the Constitution or law, if it conducts activities that are inconsistent with the statutory goals, if it is necessary to protect the rights and freedoms of other persons and finally if it is necessary to protect public health and morals.

According to the Article 36 anyone may submit charges on the existence of reasons for the prohibition of an association to a competent public prosecutor. If the competent public prosecutor on the basis of the submitted charges or based on its official duty estimates that there are grounds under Article 35 of the Act, they will submit a proposal to ban the association to a county court in accordance with the headquarters of the association. The procedures, if not defined differently, are conducted in accordance with the Code of Civil Procedure.

10. The above mentioned legislative framework is in accordance with the international human rights law.
11. Strategic documents which set the environment for the development of the civil society include: (1) the National Strategy for the Creation of an Enabling Environment for Civil Society Development which provides basic guidelines for the goals we seek to achieve by 2011 in order to improve the existing and create a new legal, financial and institutional framework of support for civil society development, and to create an enabling environment for the further development of civil society in the Republic of Croatia. The objective of the Strategy is to create conditions for community development in which citizens and civil society organisations, in synergy with other sectors, actively, equally and responsibly, on the basis of the principles of sustainable development and acting for public benefit, participate in the building of a society of wellbeing and equal opportunities for all. The National Strategy for the Creation of an Enabling Environment for Civil Society Development was adopted at the session of the Government of the Republic of Croatia of 12 July 2006. This strategy defines the basic guidelines to be achieved by 2011 to improve the existing system and form a new legal, institutional and financial system of support for civil society development and to create an enabling environment for the further development of civil society in the Republic of Croatia. The key step following the adoption of this National Strategy was the drawing up of an Operational Implementation Plan for the set objectives, laying down the measures, competent authorities, and timeframes for implementation, (2) the Code of good Practice, Standards and Benchmarks for the Allocation of funding for Programmes and Projects of NGOs which regulates the basic standards and principles of practice in state administrative bodies and the

offices of the Government of the Republic of Croatia in the procedure of allocating grants from the state budget funds to organizations for the implementation of their programmes and projects of special interest for the general/public good in the Republic of Croatia. Finance donors act according to the provisions of this Code, so that available resources would be used efficiently in society and state budget funds used rationally and transparently when allocating funds to organizations for the implementation of projects and programmes.

12. and 13. The Croatian Government at its session held on 21 November 2009 accepted the Code on the Consultations with the Interested Public in the Processes of Adopting Laws, Regulations and Policies. Accordingly, Office for Associations of the Government of the Republic of Croatia is responsible for developing guidelines for the application of the Code and systematic education of the Coordinator for counselling which are appointed by state authorities. Office of the Association in early May 2010 requested from all state administration bodies to appoint coordinators for counselling with the goal of consistent monitoring and coordination of the process of consultation with the interested public. Example where the Code is being implemented is drafting and adoption of a new Penal Code. During this process numerous debates and round tables were organized on a number of articles with the Code and the proposed solutions. Additionally, the proposal of the Act was available through all stages on the internet pages of the Ministry of Justice.