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 NGOs[1] 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 2013[2]. 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 obligations, sustainability of reforms, and Croatia's capacity to act as a successful and responsible member state.

[1] List of members of the Platform 112 coalition is provided in Annex 1 of this Report
[2] Requests submitted by Platform 112 are listed in Annex 2 of this Report, and are also available at www.kucaljudskihprava.hr

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 of the 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 base don 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 gains 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.

Assessment of the new government's performance in relation to *stability, responsibility and democratic of the government institutions and equal access to justice*

The demands of the Platform 112 are aimed at building of the political and administrative system which ensures real equality of all citizens before all government institutions, inspired by the values and principles of honesty, responsibility, predictability and stability. The very purpose of such system is citizen, an individual, whose rights and needs are provided for by institutions, in a transparent, professional, efficient and unbiased way. The specific nine demands in this area relate to the following:

- ✓ stability, predictability and fairness of procedures and the equal approach to justice,
- ✓ public administration characterized by integrity, professionalism and unbiased approach in treating citizens and
- ✓ parliamentary monitoring over reforms resulting from negotiations, with a focus to the rule of law.

Stability, predictability and fairness of procedures and the equal access to justice

In December 2012, Croatian Parliament adopted the new Strategy for Development of the Justice System for the period from 2013 to 2018, as an umbrella document for continuation of the reform activities during the EU accession The adoption of this document is very important, especially at the parliamentary level, whereby, hopefully, all political options took responsibility for the continuity and seriousness of the reform efforts in the next five years, which are still far from the tangible results with regards to quality, efficiency, and thus legal security for all users of the justice system. It is commendable that the strategy development entailed public consultations with the interested public in November 2012**. Still, it is not clear whether the strategy has been accompanied by a new annual Action Plan, instrumental for effective implementation of the Strategy.**

However, we consider it a mistake that the new structure of the Council for Monitoring the Reform of the Justice System, along with the representatives of the executive, judicial and legislative authorities and lawyers' and public notaries' chambers, **does not include the representatives of the academic community and specialized civil society organisations focused on the protection of human rights**. In light of the lack of public information on the work and monitoring findings of this body over the past years, we expect full transparency of the new Council which should have true impact on efficiency of implementation of the justice system reform. **Therefore, we are asking that (1) representatives of specialized civil society organizations and academic community be subsequently appointed into the Council, (2) the Council takes responsibility of semi-annual reporting on its work and the findings of monitoring the reform activities to the public and the Croatian Parliament, (3) the Council holds thematic public sessions and pays special attention to the budgetary dimension of the justice system reform.** We are warning that in 2013 the justice department budget has been reduced by 5%, while the continuation of the reform depends on investments, especially regarding the standardization of work and equipment of courts instrumental for equality of all citizens. It is particularly vital to monitor whether the ministry of justice is capable of absorbing the EU funds.

Platform 112 contains two key demands in relation to assurance of the independency of the justice system - the consistent implementation of the legal framework for appointments, promotion and disciplinary procedures related to state attorneys, in line with the legal framework set for the judges. Last year, according to the official reports of the Croatian Government submitted to the European Commission, the procedure of appointment and promotion and disciplinary procedures was implemented. In October 2012, the State Attorney's Office Act was emended to define the criteria for the lists of precedence for appointments. However, we are pointing out that in the stated period, the civil society organizations had no

capacity for systematic checking of the actual appointments, promotion and disciplinary procedures of judges and state attorneys, hence our independent assessment is lacking.

We are pointing out that the capacities for professional and independent monitoring of independence of the justice system are very weak at the level of the whole country, which also reflects the chronic deficit of the social engagement of the professional organisations in the legal system (e.g. judges' associations, prosecutors' associations, etc.). In that sense, there are no positive changes. **Following the proposal which was made by the then president of the National Board, and the present Minister of the Exterior, Ms Vesna Pusić, in the context of completion of negotiations in the Chapter 23, we are repeating the proposal that the Ministry of Justice, in cooperation with the Judiciary Academy and law schools, design a project of independent monitoring of the justice system reform, in order to prevent halts in the reform after the Croatian accession into the EU.** Such project should be taken into consideration during scheduling of structural and cohesion funds of the EU in the area of the further increase of the institutional capacities for the EU membership.

In relation to our demand for the fundamental revision of the free legal aid system, which proved to be inequitable and impracticable, the whole year of 2012 was lost, since the Ministry of Justice was not ready (until the very end of the year) for a new cycle of legal changes, without which systemic improvements are simply impossible. We are reminding that this was a chronic failure during the negotiations in the Chapter 23, the fixing of which, after the change of the government, was represented as certain. The positive step that we have been waiting for a year is the inclusion of the amendments of the Free Legal Aid Act into the Government Programme for the Adoption and Implementation of the Acquis in 2013 (adopted in December 2012). The need for improvement of the Free Legal Aid system is a result from the recommendations of the twinning project with the Lithuanian State Legal Aid Service in the town of Kaunas, focusing on accessibility of primary legal aid.

According to the statistical data of the Ministry of Justice from the Report on exercising right to the free legal aid (Free Legal Aid) and spending the assets for 2011, the primary legal aid was approved to the total of only 19.51% applicants, while the secondary legal aid was approved in 80,56% cases. The total of 5541 requests was received while 4634 requests were approved. In 2011, 13,450.00 HRK was paid for the primary legal aid, while 329,138.26 HRK was paid for the secondary legal aid, i.e. the total of 342,588.26 HRK. By comparison, accoridng to our survey, in 2011, the nine NGOs which are certified free legal aid providers provided legal aid through the official system of free legal aid (financed by the Ministry of Justice) in only 178 cases, while in the same period they provides legal aid in 15.265 cases outside the official system (mostly financed by international donors including the EU).

Just in time of publication of this Report, the public consultations on the draft of the amendments of the Free Legal Aid Act are underway, but regretfully, the proposed amendments do not respond to the key issues of accessibility of the primary legal aid with regards to mitigation and simplification of the property conditions. The Ministry continues to insist on verification of the legally prescribed strict conditions for acquiring the right to primary legal aid, provided that the conditions would be verified by the primary legal aid providers based on the project, instead of the state authority. It is still not clear from the proposed amendments (Article 16 Paragraph 1 of the Free Legal Aid Act) if that would simplify the procedure of obtaining the primary legal aid, as the Ministry expects, because it is still unclear what is expected from the legal aid provider. For legal aid providers' ability to check whether the applicant meets the requirements for free legal aid, those criteria should be simple and clear, while the procedure should be quick and efficient.

In order to make this long expected cycle of amendments of the Free Legal Aid Act productive, we expect that the Act will be passed in the regular parliamentary procedure with detailed public debates, where the remarks and suggestions of the professional

public and the legal aid providers will be really taken into account, and that the final legal solution would be targeted at the interests of the users. We request that regulatory impact assessment (which was not planned at present) be conducted, especially in relation to the social effects of the options of criteria for free legal aid, which has been the main problem in practice. In that matter, we are also expecting the active role of the Committee for Human Rights and the Rights of National Minorities in the Croatian Parliament, which may commit the Ministry of Justice to the assessment of the effects of the regulations.

In March, a new Regulation on free legal aid in the asylum procedure (Croatian Official Gazette 32/2012) was passed, and it contains the provisions we regard as unconstitutional (restrictive provision on the right to translator/interpreter and the right to legal aid). We consider that it was a mistake that this Regulation was passed without consultations with interested public, and especially the NGOs that provide a direct legal aid to the potential asylum seekers which is then reflected in the non-quality solutions.

We also want to point out the stagnation in the further development of the network of services for support to the victims and witnesses at the courts which was last expanded in early 2011 and it is currently available at the County Courts in Osijek, Vukovar, Zadar, Zagreb, Rijeka, Split and Sisak and at the Municipal Criminal Court in Zagreb. The planned extension of the support for the victims and witnesses to the State Attorney's Offices and the Police still has not been implemented and the Committee for Protection of Witnesses still does not function. However, in effect we did notice that individual county state attorneys do ask the employees of the Department for Assistance to Victims to come into their chambers in some cases and after they become aware of vulnerability of certain witnesses. Due to a small number of employees, which was eventually backed-up with volunteers, and the physical distance of the court and the building of the county state attorneys' offices, it was impossible in some cases.

Although the Government founded the Committee for Monitoring and Advancement of the Victims and Witnesses Support System back in January 2010, with the main goal of drafting the National Strategy for Victims and Witnesses Support, the strategy has not been prepared. Despite the agreement, the NGOs are not invited to trial and the major problem is still the organization and covering the transportation costs for victims and witnesses in order to participate in the court procedures. The positive improvement occurred within the successful project of the UNDP and the Ministry of Justice „Support to the System of Assistance to the Witnesses and Victims in the Republic of Croatia“ when a free hotline for support of the witnesses was introduced from March 2012 and provided by the volunteers of the Organisation for Support to the Victims and the Witnesses, but we believe that the key issue for sustainability of the support to the victims and witnesses is its institutionalization, which presupposes financing from the budget and the defined plan of development of the network of departments and specialised services. **The protection of witnesses was mentioned in the new Strategy for Development of the Justice System very generally, in relation to the approach to justice for especially vulnerable groups; but without precise activities and the budget items in the Action Plan, there will be no further development of the network.**

<u>Public Administration characterized by integrity, professionalism and unbiased approach in treating the citizens</u>

The requests of the Platform 112 include the reform of the public administration and rationalisation of the local and regional self-government aimed at its modernisation, increased efficiency and transparency as well as strengthening the independence of the institutions. **In this respect, we consider especially important the establishment of clear criteria and procedures for admission and promotion in the public service based on competence, introduction of meaningful system for evaluation of work of public officials and the establishment the efficient monitoring over the work of agencies and inspections to which the executive power will transfer its authorities.**

In its pre-election programme, the new government pointed out its readiness for these key and politically extremely sensitive reforms that were left out during the EU accession. According to our information, the Ministry started preparing the reforms and at the Government level the Council for Decentralization was founded which has so far held one meeting, while the Ministry gathered the experts into the topic committees (work groups) for specific reform tasks, such as rationalization and standardization of system of agencies, improvement of the educational system, reinforcement of the inspection services, etc. The Committee for Coordination of Informatization of the Public Sector was founded in February 2012 and it functions through many work groups, and in July the Action Plan for Development of the Human Resources for 2012-2013 was revised, while it has not been implemented for the most part in the last two years and there are still no significant changes in relation to the merit-based employment, assessment and awarding the work.

However, the Government still has not presented the detailed and comprehensive plan of the public administration reform (at the state, regional and the local level) and the territorial organisation which will ensure the realistic and sustainable regional and local development. Apart from the direct contact with the competent state officials, we found out about the stated activities also from the Government Programme for the Adoption and Implementation of the Acquis for 2012. (December 2012). **Hence, it is our assessment that 2012 was lost for positioning of the public administration reform as the central political project with a clear vision and wide support. It is our utmost worry that the Government does not recognize the public administration reform as key strategic investment into the survival and sustainable development of Croatia, instead of wasting its time to designing shortcuts through the system for privileged private investors, which is the intention of the current draft of the Law on the Strategic Investment Projects.**

In our April 2012 report on the first 112 days of the new government, we assessed the political appointments of the highest level managers in the state administration bodies (assistants to the ministers) and advisers in the offices as a logical short-term measure to rectify only formal implementation of public recruitment procedure undertaken by the past government, which actually derogated the goal of depolitization of the state administration. But what was missing in the meantime was the establishment of the criteria for meritocratic appointment and promotions and awarding, but also introducing mechanisms for more quality cooperation between the professional and political staff. This Government thus has not made a systematic advancement towards the meritocratic and politically responsible state administration.

In principle, we support the public administration reform aimed at strengthening the responsibility and care for the public interest in the overall public governance approach, while we consider it detrimental to focus on partial and superficial solutions aimed at savings as opposed to capacity building, i. e. linear cuts in staff, institutions and administrative units. **The thoughtful search for the model which fits Croatia should be grounded in lessons learned about negative effects of non-critical application of neoliberal postulates in the public administration reforms, which the other countries have already recognised. We are asking the Government to declare and specify its intentions regarding the public administration reform – from the state to the local level - by the end of this term, in order to improve the competences and efficiency of the public administration and the system of provision of public services. We expect the government to declare how it intends to build the necessary consensus of political and social stakeholders. Otherwise, we consider that this Government just carries on down the road of the previous government, which skilfully hushed-up this reform, in spite of the EU negotiations.**

Parliamentary monitoring over the reforms resulting from the negotiations, with a focus to the rule of law.

The civil society organisations which monitored the end of negotiations in the Chapter 23 and afterwards gathered round thee Platform 112, have continually asked for establishment of the efficient non-partisan mechanism for monitoring thee implementation and therefore assurance of irreversibility and the quality of all reforms resulting from negotiations, especially in the Chapter, located in the Croatian Parliament.

Our suggestion is an upgrade to the good practices of the special work bodies of the Croatian Parliament which were founded during the negotiations - the National Board and the National Council for Monitoring the Implementation of the Strategy on Combating Corruption.

We suggested that the stated bodies should be replaced by a new parliamentary body - the National Council for the Rule of Law and Protection of the Public Interests which would include the representatives of the civil society and the professional public in a way which would prevent the partisan over-voting, and it would also cooperate with the EU institutions. Croatia would thus acquire expertise and reputation in the future Pan-European initiatives of parallel monitoring of the quality of policies (benchmarking) on time, in the area of the rule of law, such as the one relating to the policy of combating corruption which is proposed at the moment by Viviane Reding, the European Commissioner for Justice. We firmly believe that Croatia, as a new member state to the European Union, with direct experience of the demanding transformations, should be a leader in deepening of the rule of law, democracy and human rights in the European Union and the whole Europe.

For the first time, in October 2012, our proposal got initial attention of the government representatives at the level of the Parliament and the Government, when we presented in the scope of our comments to the Comprehensive Monitoring Report on Croatia's state of preparedness for EU membership, at the thematic session that Platform 112 co-organized with the Parliamentary Committee for European Integrations. Other parliamentary bodies, especially the Justice Committee, showed increased interest in Croatia's long-term capacity to meet accession obligations, while the Vice-President of the Croatian Government, Mr. Neven Mimica, expressed public support for our proposal that a parliamentary oversight over sustainability of reforms be strengthened, also by means of a new specialized parliamentary body.

As a follow-up, at the end of the year, as a part of the announced draft of the new parliamentary Rules of Procedure, we sent our written proposal for improving openness and supervisory function of the Croatian Parliament, with focus on sustainability of reforms, to the Parliamentary Board for the Constitution, Political System and the Rules of Procedure. By now, there has been no feedback. **Regardless of the level of interest in Platform 112's proposals, we are extremely worried that less than six months prior to Croatia's accession to the EU, the parliamentary mechanisms for monitoring the reforms resulting from the negotiations of the EU have not been specified, nor the total coordination of the Government and the Parliament in the European affairs.**

Assessment of Government Performance in Relation to *Quality of Democracy*

Gathered in the Platform 112 as citizens and not as subjects, we demand a political system that will - instead of controlling the citizens - ensure citizens' control over public authorities, public accountability of officials and social responsibility of the media, free of political and advertisers' influence. The precondition for such citizens' inclusion are citizens who are educated for active participation in the political processes, and who are provided with full, correct and timely information by independent media and, directly, by public authorities.

Our 25 requests in this area are targeted at:

- ✓ educational system which prepares the citizens to active citizenship;
- ✓ comprehensive reform of the election legislation and the method for acquiring the voter's right;
- ✓ activity of the public authorities bodies based on principles of transparency and participation;
- ✓ freedom of assembly and expression in accordance with international standards of human rights and freedom and responsibility of press.

Educational System that Prepares Citizens for Active Citizenship

In order to create the responsible and active citizens Platform 112 strongly advocates systematic introduction of education for democratic citizenship throughout the primary and secondary education, including the set-up of university centres for human rights,. That presupposes creation of the curriculum for the basic education and professional development of education staff and the methods for monitoring and evaluating the educational programme for democratic citizenship.

Based on the statements of the minister of education since the beginning of the term, but also through a direct insight into the undertaken activities, we can establish that for the first time in Croatia, there is true political will for ensuring education of citizens on their rights, political participation and protection of human rights. This is substantial change in comparison to the previous government. But it still remains uncertain whether initiated activities will actually result in systematic and sustainable changes, as it requires consistency of the political, reflected in necessary budgetary resources and readiness for cooperation with professionals and civil society throughout the term of this government.

The civil education curriculum was prepared and introduced by the official decision of the Ministry of Science, Education and Sport into the experimental implementation in 12 schools, six in cooperation with the civil society organisations and six at the Ministry's initiative. However, the curriculum is predominantly cross-curricular, which puts in question its efficiency, and makes the education of teachers even more important.

In early June 2012, the Ministry of Science, Education and Sport, in cooperation with the civil society organisations, organised a common presentation of the Civil Education Curriculum attended by a hundred principals and professional associates from the schools which are mostly located in the areas of the special state care. The instruments are developed and the experimental implementation is monitored in cooperation with the civil society organisations and the Agency for Education. In cooperation and at the initiative of the civil society organisations, the Agency for Education started the education of the academic staff and issued the certificates on training for implementation of civil education. On its web pages, the Agency occasionally publishes the materials for preparation of classes. The Council for Education at the Ministry was founded, where the Agency is the representative of the civil society organisations gathered in the initiative for civil society education.

The amendments of the Law on Volunteering have been adopted and they are pointing out to the importance of the educational system. The civil education is also recognised in the National Curriculum Framework and adopted National Strategy for Creating Enabling Environment for Civil Society Development.

The greatest risks for full integration of the civil education into the academic system are absence of this content in the form of the obligatory subject, lack of the clear strategy on improvement of the current and education of the future staff for implementation of the civil education and the huge discrepancy between the declared goals and the budget limits.

Due to a lack of finances for teacher training, the introduction of the civil education in the experimental phase was limited to six schools in the vicinity of the capital and the six school in the areas of special state care which is financed by IPA projects conducted by the civil society organisations. The special challenge is the level of the higher education which in the long term guarantees the proper educational and scientific grounding for civil education. The roles of the university-based Human Rights Centre and the Centre for Human Values whose foundation was announced, but the workplan at the necessary researches and education of the future teachers, are still unclear.

Despite the repeated verbal support from the minister, the Ministry still has not presented the plan of systematic introduction of the civic education to all schools after the experimental period. Evidently, such official decision has not been made, nor have the operational documents been adopted, specifying guidelines, timeframe and resources for full integration of civic education into educational programs. **We are urging, not only the Ministry but also the Government, to fully support the civil education as its strategic project of democratization of Croatia with the intent of systematic, sustainable changes by the end of the term, which must be seen in the budget plan for the next three years.**

Comprehensive Reform of the Election Legislation

For several years, the professional and the interested public have been advocating a unique election codex which would set and harmonize the procedures for organisation and implementation of all elections and referendums in Croatia. The former government did not exercise enough political will for putting the election process in order, which sometimes had a negative impact to the integrity of the election procedures in all segments. Since the new government intends to pursue the election reform, on which it had positive comments even before the elections, GONG, in a direct contact with the Ministry of Administration, proposed a transparent process of changes of the election legislature which includes all relevant stakeholders, based on evaluation of the existing state, defining key issues and priorities, respecting the comparative analyses and professional advices. The goal of this process is to devise policy options for each existing problem of the legal framework, with clearly defined mechanisms of implementation. This process implies active approach of state institutions-coordinating the election reform process and leaves the space for harmonization of the expert opinions as well as different political options. In principle, the Ministry accepted the proposed models and started with the formation of work groups. In addition, in the last year, the Ministry of Administration started working on a draft of the election codex, in sense of harmonization of technical aspects of the election process, e.g. deadlines, nomination procedures, the composition and the number of the voting committees..

However, in the last year the focus of the Ministry was narrowed to the urgent problem of making order in the list of voters and the regulation of the local elections, set for May 2013, which included the corrections of the Law on Financing Political Activities and Election Advertising.

So far, the greatest success was passing the Law on the Voters' Register and the new Law on Residence, which solve the main cause of citizens' mistrust in elections. We are especially pleased that at the same time it solved the problem of discrimination of persons without legal capacity, who previously have not been enlisted in the list of voters. Thus the Republic of Croatia, in the global proportions and in the adequate ways, and in accordance with the UN Convention of the Rights of People with Disabilities, ensured the base precondition for ensuring the political participation of persons with mental disabilities and illnesses and persons with neurological disabilities who were most often the victims of this systematic discrimination.

On the other hand, we are disappointed that the legislative working group on local election disregarded Platform 112's request for prohibition of passive voting right to persons convicted of grave criminal offenses, especially war crimes, until legal rehabilitation comes into force. We consider this an error that should be corrected in the upcoming stage of the election reform, by means of timely consultation of comparative legal solutions and cooperation with criminal law experts.

In our view, the main negativity in the scope of the current election reform are striking delays in reviewing regulation on referendums, in a way which would facilitate citizen initiatives – by increasing the number of days for collecting signatures and by decreasing the percentage of the number of signatures of the voters. In that context, it is also important to specify which questions cannot be decided upon through a referendum, in order to ensure the protection of constitutional values. Despite the obvious deficit of the regulatory rules in relation to the right to initiate a referendum which was granted by the Constitution, The Ministry of Administration founded the working group for these issues only in February 2013. **Based on the expert and political discussions, it is evident that for this, as for the previous ruling majority, the liberalization of the referendum in the citizens' interest was not the reason for urgent legislative action, let alone the changes of the Constitution.** That is in sharp contrast with the other situations, even in the same topic, when it is advantageous to the interests of the ruling elite, e.g. o the previous changes of the Constitution, in order to, among others, facilitate the EU referendum.

The pre-election promise of the comprehensive election reform was not implemented in the last year to the extent which would make us believe that the systematic changes will happen. That represents the remaining commitment which we expect and for which we demand from this Government to complete it in whole by the end of next year, with coordination of the Ministry of Administration, in order to hold the next parliamentary elections in accordance to the new, coherent procedures. Without entering into the election models, for the fairness of the election process, Platform 112 is asking for revision and harmonisation of the election process, the adequate changes of the election units in accordance to the provisions of the Constitution, redefining the term and the composition of the State Election Committee, revision of the rules on media coverage of the election campaign, with special attention to ensuring editorial freedoms and responsibilities, abolishment of the passive election rights for perpetrators of serious criminal offences, especially war crimes and the abolition of a possibility that the bearer of the election list is the person who is not the candidate in the specific electoral unit. We are also asking that the adequate financial assets are targeted towards education of all election stakeholders, especially in relation to realization of the election rights of persons with disabilities and persons who reside in the institutions.

Functioning of the Bodies of Public Authorities Based on the Principles of Transparency and Participation

In this area, the new government made several long-term innovations, in the first place due to good preparation of the new Act on the Right of Access to Information, focused on eliminating chronic deficits of protection of this constitutional right. The process of drafting this Act is an example of a good practice which is (still) rarely seen in Croatian legislative culture. The draft of the new Act passed the public debate, it was made by a work group consisting of the representatives from institutions, civil society and the experts. In the final draft of the Act, the alternatives proposed by the Platform 112 were included – establishment of a special Information Commissioner and the public interest test for all types of information (even the classified data). In the first reading, the MPs strongly supported the solution which is related to the Commissioner, so the Commissioner was included in the final Bill, and that Bill was sent to the European Commission, and after that into the second reading in the Parliament, where it was adopted by two thirds of votes (85/35/1) on 15 February 2013.

This Act responds to the key requests of the Platform 112 and the organisations who actively participated in the drafting process (GONG and Transparency International Croatia), and they relate to the public interest test and establishment of the autonomous body, the Information Commissioner, with adequate authority for protection of this constitutional right and the stricter sanctions for violation of the same.

Furthermore, in January 2013 the members of the working group at the Ministry of Administration were appointed, with the task of harmonizing the Data Secrecy Act with the Act on the Right to Access Information. This activity was planned by the Action Plan of the Open Government Partnership, with the support of the National Security Council. Such harmonization was one of the demands of the Platform 112 that we expect the Government will fulfil in the months to come, in cooperation with specialized civil society organisations.

However, in the Croatian administrative practice, data secrecy still has a priority over right to access information and protection of public interest, which is the reason why norms and sanctions to the benefit of the access to information and to the detriment of secrecy of information should be made more rigorous. Such state of play is unambiguously corroborated by several examples from 2012 - the ruling of the Administrative Court that denied GONG's appeal against the Croatian Parliament's decision to withhold the CVs of the candidates for the Commission for the Prevention of Conflict of Interest and the case of job announcement for two members of the Council for Electronic Media with minimal scope of publication of the public call. A vivid example is also the continuous resistance of the Agency for Electronic Media regarding the request for full disclosure of concession contracts for television broadcasting at the national level. Even after the Agency for Personal Data Protection made a positive step and annulled the decision of the Agency for Electronic Media whereby the information on concession contracts were denied (photocopies were requested), the Agency continued to oppose to that decision and it started the legal procedure before the Administrative Court! Platform 112 demands systematic sanctioning of violations of the Act on the Right to Access of Information through the existent legal provisions, and especially in relation to the work of the Government.

However, there are also some recent signs of the greater agility of the institutions in punishing the violation of the Act on Right of Access to Information. One case which inspired GONG's research was ended at the Magistrates' Court and both the public body and the person who was responsible were punished for denying the right to information, while the Agency for Personal Data Protection started the misdemeanour procedures at the initiative of the user of the Act on Right to Access of Information and after the notification. According to the annual report of the Agency for Personal Information Protection on implementation of the Law on the Right to Information Access, three misdemeanour procedures were started in 2011.

The bad practice of the lack of transparency is reflected in belated submission and reviews of annual reports of the state and public institutions and companies, which makes them obsolete. The recent example was the report of the State Audit Office on the conducted financial audits of political parties and individual MPs for 2010, which was discussed in the Parliament only in March 2012, i.e. after the parliamentary elections were conducted!

Regarding the transparency of the legislative process, there have been positive moves, yet the full break-up with bad practice of non-compliance with the Code of Public Consultations did not happen. Laws are still mostly passed by urgent procedure, which undermines the participative democracy and the quality of regulations. In 2012, **29% or somewhat less of two thirds of all drafts of the bills sent to the Government previously passed the internet consultations** (53 out of 180 or 29%). That is a clear improvement in relation to 2011, when in the term of the previous Government less than one fifth or 17% of all bills passed the Internet consultations (29 out of 175). The positive trend is visible by the fact that in 2012 additional 23 drafts were sent to the public consultations, but those which still did not reach the Government's session. The large majority of the consultations adhere to the

deadline of 15 days or more, as set by the Code. A half of the ministries also sent other types of legal acts into the public debate, beside the Bills, and six of them conducted other types of consultations, such as round tables. **But the final result is still unsatisfactory – as much as two thirds of the new laws are not available to the public in the phase when it is still possible to make impact on their content**, where we also have bizarre cases such as the Law on Obligatory Medical Insurance, which was changed three times in 2012, without being subject to a single public debate.

The urgent procedure was applied to 82% of the laws passed in the 7th term of the Parliament. This is just a little less that 87% of urgent procedures in the previous term and completely unacceptable in the light of completion of negotiations with the European Union.

We expect that the impulse for more systematic implementation of the Code of Public Consultations will be the new provisions of the Government's Rule of Procedure from October 2012. According to the Article 29 Paragraph 4, the submission of legal acts should be accompanied with the report on conducted public consultations. According to Paragraph 5, the draft of the regulation must be sent to the consultation procedure pursuant to the Code of Public Consultations and the consultation plan for the bills and proposals of other regulations and acts passed by the head of the competent body with the plan of legislative body. **This important change represents the fulfilment of the demand of Platform 112, and is a result of intensive advocacy within the Open Government Partnership, where it was envisioned in the Action Plan, as well as before top government officials.** Apart from that, it must be pointed out that the implementation of the Code is directly fostered by the Government's Public Relations Office.

The negative heritage is also represented by passing the laws on urgent procedures, which is still predominant, and we believe that there is no reason for that, except in really urgent and unpredictable cases which should be reduced to minimum now that the Government has eventually adopted annual legislative plan there is no urge any more of meeting impossibly tight deadlines related to harmonization. **For the purpose of equal rights of all stakeholders and the transparency, we are asking from the Government to pass an unambiguous instruction to all bodies that the urgent procedure and lack of public consultation must be limited to previously explained exceptions. The Government should revive a good practice from the time of the Prime Minister Ivica Račan, when all journalists had equal approach to the members of Government during regular press conferences after the Government sessions.**

The action plan of the Open Government Partnership 2012 – 2013, adopted by the Government in April 2012, which came into existence in the real dialogue between the public officials and the activists, is now considered a useful tool for fostering improvements in opening governmental institutions. The plan includes a set of measures, with a focus to transparent administration of the budget, public procurement, work of the public companies, financing of political parties, a public insight into the property of the officials and managing staff, access to information and participation of public in creating public policies. Every measure was detailed into a set of activities with specified deadlines, resposnibilities and budget. We understand this document as a set of specific political commitments for raising the quality of public administration and participative democracy and the systematic prevention of corruption whose implementation will be supported and critically monitored by the civil society organisations grouped round the Platform 112.

Yet, in practice, actual implementation of many measures in the Action Plan of the Open Government Partnership requires direct political support beyond the readiness of certain clerks and even officials who sometimes act as enthusiasts within the stagnant system. The indicator of this fact is enormous energy invested into the implementation of the Action Plan's task to change the Rules of Procedure. If the new government fulfils its obligations in the

Open Government Partnership, it will justify Croatia's committment to openness as the fundamental principle of democratic rule, before its citizens and in the international context.

Freedom of Assembly

With the new Law on Public Assembly, and in relation to the new decision of the Constitutional Court, public gathering at the St Mark's Square was enabled, which basically represents fulfilment of our demand and the pre-election promise of the new government. The first Bill was extremely restrictive both with regards to the area for gathering (20m from the Government and the Parliament) and the number of participants in the gathering (250 persons). After the reaction from the civil society organisations and the media, the Ministry of Interior changed some of the disputable provisions of the Law in the way that public assembly was now limited to 10 meters from the Government/Parliament and 20m from the Constitutional Court and to 1500 persons. In addition, organisation of peaceful gatherings and public protests was limited to the time period between 8 and 22. The Law also sets the routes for accessing St. Mark's Square in case of public gathering.

Nevertheless, requests related to the possibility of peaceful gatherings and public protests are partially fulfilled. Namely, we consider the limitation of number of persons who can take part in protests too restrictive (especially when it is generally applied to all protests), hard to carry out by protest organizers and discriminatory in respect to those citizens who end up turned down. We also consider setting the routes (streets) which the citizens can use when approaching St Mark's Square in case of public gatherings overly protective, but we are satisfied with the provision which allows the people with disabilities and impaired movement to come from the alternative route. We also believe that the time limitation for protests is also problematic.

Regarding other requests regarding commitments of the organizers and clear definition of the procedures of limitation of peaceful gathering and public protests, the government did nothing, i.e. it did not start the process of amendments of the Law on Public Assembly that we requested. **No progress has been made in relation to our request for introducing sanctions for usage of disproportionate force in police proceedings during non-violent protests and civil disobedience, with prohibition of arrests and misdemeanour procedures of non-violent protesters.** The proof was the case of eviction of a family in Zadar, when the police again arrested the protesters who demonstrated passive resistance. So far, there has been no response from the Ministry of Interior regarding our proposal to meet in connection to this problem.

The formal work of the Complaints Commission of the Ministry of Interior has begun; the Commission was founded pursuant to the present Police Act and it engages only three members who review all complaints about the police work and the police treatment of the citizens**. The very start of the operations showed that the Commission in this formation will have no capacity to tackle the citizens' complaints in quality and independent manner, but that the model should be decentralized at the level of the police offices while at the level of the Police Directorate a Commission that acts as a second instance body should be established.**

Freedom of Expression/Media Policy

Through the work of the Ministry of Culture, the new government initiated positive changes in new media policies. The new media policy should be geared towards protection of public interest in the area of media and journalism, which we consider key precondition for democracy and justice in the Croatian society. By the end of 2013, we expect that the new media policy be formulated in the open process with all key stakeholders, especially journalists.

In relation to the public media, in the first six months of the term, the Ministry of Culture was engaged in solving the crisis at the Croatian National Television by preparing the Croatian National Television Act, which in mid 2012 finally resulted in the dismissal of highly compromised management ad editorial leadership. However, at the same time, the abolishment of Vjesnik, was the result of two decades of bad management policy and subjection of this newspaper daily to consistent political control. The fate of Vjesnik must not catch up to other public media. **We think that the Croatian public needs quality and influential public media, which would perform the function of relevant informing and educating of citizens. We also demand that the Vjesnik's archive should be saved and transferred to the Croatian State Archive, where it would be also available in digital form to all interested users.**

At the time of publication of this report, the amendments of the Electronic Media Act are underway, defining the status, rights and obligations of the non-profit electronic media, as well as enabling their access to the Foundation for Fostering Pluralism and Variety of Media. If the law is passed, the Council for Electronic Media will pass regulation defining the quota, criteria etc. for non-profit media within 90 days. It is important that the Ministry of Culture's opinion must be acquired prior to the adoption of this bylaw by the Council.

In relation to Platform 112's demand for full transparency of the concession contracts, the Agency for Electronic Media published concession contracts on its web pages, but without their important parts – the bids which resulted in concessions for those TV and radio stations. On February 5, 2013, the Agency for Protection of Personal Data solved the request from October 2012 related to conducting the public opinion test of the concession contracts because the Council for Electronic Media disabled the public access to the bids which were constituent parts of those contracts by its decision to a five-year term. The Agency for Protection of Personal Data annulled the decision of the Agency for Electronic Media and asked them to solve the case again, which the Council for Electronic Media failed to do within legally binding deadline. The public interest test could not be conducted as the Agency for Electronic Media defaulted to the request of the Agency for Protection of Personal Data to supply them with the requested data.

In the debates regarding the amendments of the Law on Electronic Media, there is no consensus whether radio and TV concessions should be encouraged. Encouraging more non-profit concessions is an open issue, when they do not exist in Croatia (until the recent foundation of the Student Television at the Faculty of Political Sciences in Zagreb, which itself is a signal that something is systematically wrong in the environment for development and sustainability of non-profit media. It is important to point put that very few non-profit radio stations have large organisations behind them, they are supported by public funds, e.g. faculties, hospitals or the Catholic Church. **The status of the non-profit radio and TV stations is a sufficient indicator that the environment for their work should be changed so that it encourages non-profit productions, which are now mainly operated by the civil society organisations, and which show the interest to build the non-profit media following their previous experience and many years of work.**

For these reasons, we believe that the things in the media policy and legislation should be radically changed in the sense of the complete regulation of the media space, easier access to frequencies for non-profit radio and television stations, and encouragement of greater social responsibility of the commercial media, as well as the media sector as a whole. **The role of the Foundation for Fostering Pluralism and Diversity of Media should be reviewed– is their objective to foster pluralism in public space or preservation and institutional support to the commercial media?** As it is evident from the Regulation for allocation of the Foundation's funds, only individual broadcasts and shows can apply to the Foundation and then they role is explained in the context of pluralism and public domain, and the local and regional commercial media do not apply for institutional support in their sustainability with their total media significance.

If we take into account the strong resistance from the media business towards the new media policy that primarily considers the public interest and not gaining profit, we fully support the efforts of the Ministry of Culture, and we demand from the Government to be consistent in implementation of this demanding reform, instrumental for democratization of the whole society.

Assessment of Work of the New Government in Relation to Combating Corruption and Protection of Public Interest

We consider public interest as a guiding principle for all public officials and the main policy-making criterion. Unambiguous, precise legal provisions, procedures and criteria for the disposal of public resources are the only guarantee of protection of the public interest against private interests and corruption. Therefore, we are demanding the following from the new government, through fifteen specific requests in this area:

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- ✓ setting up the institutional and legislative framework that will efficiently prevent and punish the political corruption within the public authorities;
- ✓ protection of natural and public resources from the particular interests;
- ✓ greater allocation of assets for educational system that will ensure equality in access to kindergartens, schools and higher education institutions to all citizens.

Setting up the Institutional and Legislative Framework That Would Efficiently Prevent and Punish the Political Corruption Within Public Authorities

In relation to the demand for setting the institutional and legislative framework which will efficiently prevent and punish the political corruption within public authorities, the Platform 112 directed its key demands to the issue of management of conflict of interest and the quality monitoring of cash flows in politics.

In relation to the amendments of the valid Law on Prevention of the Conflict of Interest, after the Constitutional Court annulled several provisions of the Law on Prevention of the Conflict of Interest in November 2012, a working group for evaluation of the existent Law and suggestions for improvement of the present solution was established by the Ministry of Administration in February 2013. Constitutional Court's ruling related to the provision where the banks were due to deliver data on the official's property at the Commission's request, even when they are protected by the banker's secret. Also, it annulled the provision whereby the Commission for the Conflict of Interest could directly demand the data from the business entities outside the system of the state and public authorities. Also, the Commission's authority to assess disproportion between the property which the official entered into his property card and the data from the Tax Authorities and to "establish the facts by its own actions", were assesses by the Constitutional Court as lacking clarity of the provision and opening space for far too wide interpretation.

Due to the noticed necessity to detect and manage the conflict of interest in an efficient way, it is important to point out that the President of the Constitutional Court, Ms Jasna Omejec, stated in her explanation of the court decision from November 2012 that the conflict of interest did not necessarily mean the corruption: "That conflict can always occur in a set of life circumstances, but it is important to prevent this predictable or potential conflict in an efficient manner, or that the current and real conflict is efficiently solved. If that is done, there is no punishable behaviour, there is no corruption either, nor the punishment". The president of the Constitutional Court claimed that the legislator in some provisions of the law "incorrectly equalled the conflict of interests with criminal or corruptive behaviour and it gave the Committee the authorities which are inherent to prosecution of the criminal acts and deciding on criminal responsibility".

In early 2013, the new competition for the election of members of the Commission for Conflict of Interest was held, and its criteria were the same as they were at the previous competition, i.e. they did not include the experience in anti-corruption and managing conflict of interest. A great number of people sent applications to the competition, and some of them did not allow publication of their CVs, since the text of the public call contained no warning on use of personal data. The interviews with the candidates who formally met the criteria were held at the end of January 2013 and five members of Committee were chosen.

In relation to financing political parties and campaigns, the increased transparency of financing was introduced into strategic documents. In the Action Plan of the Partnership for Open Government initiative, the measure 6.2 sets that the "preconditions for publication and permanent availability of data to donors of election campaigns and regular political actions must be set". Also, the measure 115 of the Action Plan with the Strategy of Combating Corruption provides for "establishment of the data base for donors of political parties and campaigns". **In accordance to that, the work group where the representatives of the civil society (members of the Platform 112 GONG and Transparency International Croatia) participated, drafted the Law on Amendments of the Law on Financing Political Activities and Election Advertising, which the Government sent into the parliamentary procedure.** The draft proposes that the financial reports and the reports on financing election advertising must be continuously published in a searchable format and that the data on the costs of advertising and the discounts received should be specified. It was also suggested that the deadline for collecting donations should be limited only to the pre-election campaign period, as so far the donations could have been collected even 30 days after the end of the campaign, which opened the space for post-election calculations. **The suggested Amendments, adopted in late February 2013, should additionally improve the legal framework of financing political parties and election campaigns and decrease the space for manipulation.**

There are still **no signs of changes in the direction of the demands of Platform 112 which relate to the more efficient detection of unlawful enrichment** through application of the mechanisms of unexplainable wealth in accordance to the Article 20 of the Convention on Preventing Corruption and setting the mechanisms for civil notifications of disproportions between the property and the income to Tax Authorities. **There are no signs that the legal protection of whistleblowers, activists and journalists will be increased in cases of corruption.**

<u>Protection of Natural and Public Resources from Particular Interests</u>

In relation to this area, we consider that it is very bad that, in only one year of the Government, the head of the Ministry of Environment and Nature protection was changed. This resulted in the fact that e.g. the new umbrella regulations such as the Environment Protection Act, the Nature Protection Act and the Waste Act were not passed even almost one year after the conducted public debate. **It is evident that the two persons in ministerial position have totally different policies on environment and nature protection, which shows that the Government has no common vision of environment and nature protection, where the continued work must be seen.**

The former Government, on the eve of elections when populism peaked, passed the Act on Dealing with Illegally Constructed Buildings (NN90/11) that enables legalization of a greater part of illegally constructed buildings almost without any criteria. **Instead of rectifying this wrong approach, the new government took a further step in the wrong direction. In July 2012, the new Act on Dealing with Illegally Constructed Buildings was adopted (NN 86/12). With this regulation, the past Act was annulled, yet the provisions can be applied to the procedures started during the period of its enactment.** The content of the new Act is unacceptable as it enables legalization of almost all illegal buildings without adequate distinction of various forms of illegal constructions. This regulation facilitates devastation of the protected

coastal area, especially valuable agricultural land and protected woods and caters to extra profit for large illegal constructors.

It is unacceptable the new Law eliminated the minimal limitations of the previous Law as it enables legalization in the areas outside construction land in the protected coastal area of up to 70m, at the especially valuable agricultural land and protected woods. In the public debate before passing the Law, the Green Action requested its withdrawal, because it considered that this regulation cannot be fixed. This proposal was not accepted, just like the specific comments of environmental groups to the text of the regulation.

The issue of illegal construction represents a serious and a complex problem, and it cannot be solved overnight by a law which would literally equalize all types of illegal construction. Before passing any law, all types of illegal construction should be classified with subsequent precise quantification e.g. the number of illegal buildings which are in accordance to the spatial plan by their purpose, size and location, the number of buildings which are too high, the number of buildings which are too wide, and the number of buildings that are built outside the construction land, since those are not equal forms of illegal construction and they cannot be treated in the same way. After making the analysis of the state, a previous wide public debate should be held, in order to find the best model of legalization of illegally constructed buildings. Only after that, and based on the conclusions of the previous public debate, the draft of the Law should be made and sent to the public debate.

In the same manner, five months before the parliamentary elections, the former Government changed the Law on Agricultural Land and decreased the fee for the change of purpose of the agricultural land from 50% to 5%, i.e. from 100% to 10% for especially valuable arable agricultural land, and thus additionally increased the space for land speculations and corruption during the changes of spatial plans, and also enabled the irreversible destruction of high-quality agricultural land as a resource for future development of Croatia. **Unfortunately, the new Government did nothing to annul these potentially corruptive elements of the Law, and gave silent approval for further devastation of agricultural land.**

The proposal of the new Law on Agricultural Land entered into parliamentary procedure and it passed the first reading. It allegedly "introduces stricter criteria of re-assignment of the agricultural land". **Since the previous government decreased those fees for 10 times, it was expected that the present Government would increase them in the same proportion, but that was not provided for, although the fees will be somewhat higher than before.** However, the fees for re-assignment of the purpose of the agricultural land from the Bill which amounted to 50% and 80% of the market value of the land were decreased to 25% and 50% without explanation on the reason for such change. **Furthermore, the Law still provides for that the investor will be waived from the fee for re-assignment of the purpose of the agricultural land in case of construction of the golf field. That exception, as opposed to all others, has no ground in the Constitution and should be definitely deleted from the regulation**. In addition, the new Law tries to introduce the total centralisation of management of the agricultural land, i.e. all related tasks will be handed over to the Agency for Agricultural Land. Since the above-mentioned Agency was founded back in 2009 and has not came into existence in reality, it is questionable whether it will now have capacity to perform such numerous and responsible tasks.

According to the new draft law, all decisions are made by the Agency for Agricultural Land and the Commission consisting of three members, only one of them being a representative of the local self-government unit from the area where the said agricultural land is located. That system was proposed in order to accelerate the lease of the agricultural land, which is now being realised very slowly, but it is not clear in which way would the procedures be accelerated if one body would perform the tasks which have previously been delegated to all self-government units. We consider that this law brings about no reform, as it does not promote co-operatives

and family agricultural businesses but, on the contrary, it promotes concentration of the agricultural land, i.e. it enables monopolization of the agricultural land. We believe that this Law leads to parcelling out and that it leaves the agricultural production overly exposed to the „unpredictable flows of free market and isolated will of an individual" to which even the Constitutional court warned and called unacceptable. This approach prevents any strategic approach and planning and questions the existing initiatives and policies of agricultural management at the local level. **We also find the fact that this Act was in public debate over the summer (the final day of debate was on 20th August!) extremely bad, and we believe that therefore there was no political will to organise a wide and quality public debate.**

With the excuse of easing the consequences of the financial crisis, some entrepreneurs and politicians accentuate the need for privatisation of the companies which perform public and utility services or manage natural resources. As a rule, such moves result in higher prices of public services and over-exploitation of natural resources. **Therefore, we are asking the Croatian Parliament to adopt the Parliamentary Declaration which would prevent this scenario.**

The Water Act has been amended for a couple of times in the last two years. There is a strong pressure to mitigate the regulations on management of water resources in order to enable economic exploitation. In that sense, the Water Act was amended in April for better regulation of gravel extraction and dredging. The proposal which was available to the public still allowed for gravel extraction and dredging, but it also provided for the obstacles and conditions in order to prevent over-usage. **However, in December 2012 we managed to obtain a copy of the amendments of the Water Act which were prepared after the closure of public consultations and after they were sent to the European Commission for verification. These included considerate changes of up to two thirds of proposals and, among other, it removed many obstacles and conditions which previously existed in order to prevent over-usage of water. The Green Action sent the comments to this latest draft to the European Commission, with a special warning on playing with the purpose of public debate and on the special need for repeating that.** According to our information, the European Commission asked for revision, not only the draft of the amendments, but also of the current Water Act and its amendments.

In January 2013, a new public debate of the draft of the new bill of the Law on the Strategic Investments of the Republic of Croatia was organized, although the bill was not listed in the annual plan of the legislative activities of the Government. That bill, similarly to the previous Law on Golf Fields, puts the investors into the preferential position and preconditions for sale of the most valuable resources i.e. agricultural land and the woods under very fast procedures which would not enable participation of the public. Namely, this regulation provides for the deadline of only ten days to obtain the permits needed for so-called strategic project, and all decisions on such projects will be given to the hands of only several people in the Government. If it is adopted in the urgent procedure as planned, this Law will enable further devastation of natural resources for the needs of so-called strategic investments, and it also makes ground for corruption and pillage of the land. The coalition of the civil society organisations and the experts was gathered and they joined their forces and knowledge to fight against passing this Law and they also prepared the comments to this Law. It is extremely bad that the public debate for such an important regulation was organised in only several days (nine), which made no room for quality and wide public debate.

In relation to the demands which refer to greater budgetary allocations for educational system which would enable equality for enrolling into kindergartens, schools and institutions of higher education to all citizens, instead of the necessary increase of the budgetary allocation for science and higher education, which was also promised in the pre-election programme, the total allocations in that area were further decreased.

With the announced harmonisation of enrolment quotas with the needs of the labour market, the new Government intends to base the creation of new academic policies on projections, i.e. speculations on future business trends, which opens the space for further reduction of society primarily to the market, and the reduction of universities to manpower factories**. Continually versatile market cannot be the valid measure of forming the higher education field.**

The announced free education as implemented by the new Government is far from the free education as it was articulated in the student protests in 2009 and the last years' strike of academic staff. Varying in announcing free university courses for full-time and successful students, this Government obviously has no intention to do anything on one hand to stop the year-long bad practice of some Croatian faculties to enroll the redundant number of students to collect money from the fees, and on the other hand, ethically unacceptable financial penalisation of students, e.g. the possibility of „redemption of failure**". In that sense, we are repeating our request of the Ministry of Education, Science and Sport, to open the dialogue with the trade union for higher education and science "Academic Solidarity" in order to include the starting points of the Union which are stated in their Declaration into the long-term policy for development of higher education.**

Assessment of Work of the New Government in Relation to Equality and Dignity of All People

Protection and promotion of human rights, especially the rights of vulnerable and minority groups in Croatia, should be one of the primary principles in creating public policies. After the integration of a set of standards of protection of human rights through the EU accession process, we are expecting from the new government to strongly promote and respect the standards of human rights, especially of the vulnerable and minority groups in Croatia, despite the non-existent "outside" pressure. **Therefore, we are asking the implementation of 39 demands aimed at**:

- ✓ improvement and consistent application of anti-discriminatory legal provisions, including the application of the set sanctions;
- ✓ improvement of the legal and institutional framework for protection of the socially excluded citizens, especially in relation to the commitments taken by the Convention on the Rights of People With Disabilities;
- ✓ establishment of efficient mechanisms of exercising labour rights;
- ✓ efficient and truly independent citizens' supervision over the security apparatus: the army, the police and the intelligence;
- ✓ promotion of human rights and peace building in the exterior policy of the Republic of Croatia through international cooperation.

Advancement and Consistent Application of Anti-discrimination Legal Provisions, Including the Application of the Set Sanctions

There is still no improvement in one of the most sensitive areas of combating discrimination, i.e. the proportionate employment of minorities in government institutions. The new government also failed to show significant initiative with regards to meeting the demands for systematic and full implementation of the Constitutional Law on the Rights of National Minorities, especially the Article 22., or for establishment of the independent monitoring over implementation of procedures in competitions for employment in the state and public services which would enable the efficient control over the application of the Constitutional Law.

On the other hand, the Government showed the political will for the implementation of the Article 12 of the Constitutional Law on the Rights of Public Minorities which guarantees the equal usage of languages and scripts to national minorities which make up

to one third of the municipality or the city in the area of a certain unit of self-government. Thus after publication of the results of the census, the decision on the equal usage of Serbian language and Cyrillic script at the territory of the city of Vukovar was passed, however, this decision met extremely negative reactions of the public, some political parties and some media. The protests against "the introduction of the Cyrillic script" followed and they were organised by the veterans' organisations. **In this example, the Government showed determination to persist on obeying and implementing the Constitutional Law on the Rights of Public Minorities despite the unpopularity of this move. Despite our support to the Government for full implementation of this provision, we would like to draw attention to the need of preparing the local community for introduction of bilingualism, especially in the areas where the war traumas are still present and where the communities are still divided on the ethnic basis.** In that sense, the civil society organizations which work on peace building and respecting human rights are willing to organize the processes of the ethnic dialogue on bilingualism in those communities. But the political consensus on respecting Croatian and international norms on protection of rights of national minorities, which obviously does not exist at the moment, is necessary for the long-term sustainability of building of trust in these communities.

In spite of the announcements from the government that in September last year they would establish the taskforce for substantial amendments of the Law on Combating Discrimination , which would include the civil society organizations and after the technical amendments of the Law on Combating Discrimination which are in accordance to some demands of the Platform 112, it was not realized. **Therefore, we are asking the Government to open the dialogue with the civil society organizations regarding the amendments to the Law on Combating Discrimination and accepts the *policy* proposals of the Anti-Discrimination Network.**

There is evident progress in the course of revision of school textbooks, in respect to gender stereotypes, lack of gender equality promotion and different forms of intolerance, discriminating attitudes and homophobic contents. In June 2012, the Ministry of Science, Education and Sports established a Commission for ethical assessment of school textbooks, in charge of detection and removal of discriminatory and intolerant contents and stereotypes, including information identified as unobjective or inappropriate for student age. Members of the Commission were selected in accordance with principles of interdepartmental cooperation and competence – the Head of the Commission is a well-known expert from the Faculty of Philosophy, Vedrana Spajić Vrkaš, PhD, while the rest of the members are representatives of the Ombudswoman for gender equality, Ombudswoman for children, Government Office for Human Rights, Commission for Relations with Religious Communities, Education and Teacher Training Agency, Croatian Youth Network and Centre for Peace Studies.

In relation to Platform 112's request for introduction of sexual education, we have concluded that these contents have been introduced into the health education curriculum and that there is political will to introduce health education, in spite of the unseen resistance of the Catholic Church, some other religious communities and associations. Unfortunately, the campaign against health education included numerous misinformation and manipulations by parents and students, as well as sexist and homophobic statements made by persons who were publicly active during the campaign. It is to Government's credit that it refused to give in to criticism that was mostly based on prejudices, discriminatory views of certain social groups and pseudo-scientific positions. We also think that there were omissions made by the Ministry with regard to implementation of the health education, communicating the contents of curriculum to the public and teachers, as well as in preparing teaching materials devised to facilitate the transfer of curriculum to the students.

Since February 2012, there are ongoing activities on preparing the Domestic Partnership Act, carried out by members of a work group organised within the Ministry of Public Administration. According to the Government plan of legislative activities for 2013, this Act is scheduled for

adoption in the second trimester of this year. **The Government has given clear signals that this Act will not be introduced through changes to the Family Law, which shows no readiness for complete elimination of discrimination of same-sex partnerships against heterosexual partnership in terms of their rights to marriage. However, the Government does show readiness to significantly reduce discrimination and change the overall position of the society towards the rights of homosexual persons, so in that respect, we can talk about an improvement towards fulfilling the request.**

In relation to requests referring to gender equality, we can draw a conclusion that there was no significant progress made. In fact, **a big step backwards is the fact that the Government and the Parliament have put out of force the Article 35 of the Gender Equality Act prescribing the use of quotas, that was supposed to be in force as of the 2013 local elections.** In spite of the opinions expressed by every institution in charge of enforcement of this Act and by non-governmental feminist and women organisations, according to the Government's position accepted by the Parliament, the defined sanctions will not be applicable as of the local elections in 2013, but as of the local elections in 2017, that is, the parliamentary elections in 2019. It was announced that the Gender Equality Act will be changed so as to apply the quotas as of the parliamentary elections in 2015, but there were no activities conducted in that direction.

The new Law on Maternity and Parental Allowances has been sent into procedure, but there is no mention of an obligatory paternal leave. The law was supposed to have been harmonised with the Directive 2010/18/EU, aiming to encourage fathers to take parental leave and thus contribute to greater gender equality in terms of providing for the family needs. Fathers can now easily use parental leave after mothers have used their part, but exactly at the time when fathers usually use their leave (two months after the mother has used her 12 months), the maximum parental allowance was reduced from the earlier 2660.80 HRK to the present 1663.00 HRK. Parental leave has remained the same, in duration of six months after the child was born, with an allowance corresponding to 100% of the salary. In case it is used by both parents, parental leave has been prolonged from six to eight months. Four months is reserved for the mother, and four months for the father, where the maximum of two months can be transferred to the other parent.

Institutions dealing with human rights protection are exceptionally important at the moment when the issue of human rights is no longer the issue of EU accession, but the internal issue for which the Government, the Parliament, judiciary, independent institutions and civil society organisations must take full responsibility. However, **when appointing the new Ombudsman/woman, the institutions showed lack of maturity in terms of fully respecting procedures as a guarantee of democracy and independence of the only independent human rights institution with an A rating according to the Paris principles.** The procedure that took eight months was marked by extensive interpretation of the competition criteria, by repeating the competition due to the political coalition in power being unsatisfied with proposed candidates, then by introducing the new candidates, by not accepting a candidate proposed by the relevant parliamentary committee (Committee on Human and National Minority Rights), by the media scandal involving one of the candidates and by doubtful ability of the appointed candidate to meet the criteria referring to the length of professional experience. In addition, the opposing parties refused to take part in such a procedure, so the Ombudswoman was selected exclusively by the leading coalition. **Once again it showed that one of the obstacles in selecting a person with 15 years of experience in human rights protection, whose work has been recognised by the public, is exactly what the civil society organisations warned about – the criteria stating that this person must be an Ombudsman/woman by vocation. We will keep insisting on changing this legal request.**

We have noticed that joining the Government Office for Human Rights with the Office for National Minorities resulted in a lack of quality in internal coordination of the

Government policies relating to human rights. The new Office has lost a proactive role in creation and coordination of public policies dealing with human rights, which has weakened the Government's internal institutional mechanism for increasing the quality of public policies referring to human rights.

With regard to requests for reaching a just and inclusive migration and integration policies in Croatia, an improvement was made since Croatia was required to adopt a Migration Strategy as part of its obligations towards the European Union. The Migration Strategy was adopted in late February. An **inadequate** public discussion was held on the draft proposal of the Migration Strategy, and very little time was left (only few days after delivering the draft strategy) to deliver comments. The Strategy anticipates introducing integration measures for asylum seekers and persons under subsidiary protection, as well as establishing a working group for implementation of the Migration Strategy. An invitation for membership in the aforementioned working group has also been sent to the Centre for Peace Studies, as a representative of civil society organisations. In spite of the flaws in the Strategy contents, we hope that the working group will succeed in using concrete measures to create a righteous and inclusive framework for acceptance and integration of asylum seekers. The working group should be coordinated by the Government Office for Human Rights.

There were no significant improvements made in terms of the status of asylum seekers and their ability to exercise social rights: even though the Ordinance on Learning Croatian Language for Asylum Seekers and Asylum Holders over 15 Years of Age has been adopted, **the Ministry of Science, Education and Sports has clearly stated that it has no funds for implementation of certain legal obligations, such as the obligation to provide the Croatian language course.** Due to this fact, more than 20 asylum seekers are waiting to be able to exercise this right, without a possibility to learn the language since nobody wants to assume the obligation of financing such a course. In the meantime, the number of asylum applications has grown from 800 applications in 2011 to 1200 in 2012, which is expected to cause numerous problems concerning the accommodation capacities, as well as show consequences of the lack of the integration measures.

Improvement of legal and institutional framework for protection of socially excluded citizens, especially with regard to obligations assumed by Convention on the Rights of Persons with Disabilities

It seems that the process of structuring of the new Ministry of Social Policy and Youth has not been completed. Until now, the new Government made no announcements of its priorities in terms of reforming the social welfare system, or any further steps in accomplishing the goals of the social inclusion policy, which is also one of Croatia's accession obligations.

At the same time, drafting changes and amendments to the existing Social Welfare Act is still underway, but the interested public has almost no way of monitoring the work. In terms of the contents, the existing Social Welfare Act enacted in 2012 without consultations with the interested public, can be criticised in many ways, especially by saying that it ignores obligations assumed by signing a Joint Memorandum on Social Inclusion of the Republic of Croatia and by signing and ratifying the Convention on the Rights of Persons with Disabilities (International Gazette 06/07 and 05/08). **Especially problematic part of the Act is the one prolonging a widely spread practice of denying legal capacity to persons with intellectual disabilities – the Law prescribes no measures of support or protection that would reduce the need to apply the procedure for the denial of legal capacity.** Moreover, paragraph 2 of Article 71 of the aforementioned Act "offers" the denial of legal capacity as a shortcut for exercising rights to the allowance for care and assistance.

At the moment, there are about 17,000 persons completely denied of legal capacity in Croatia, and this Law offers no perspective to them. In addition, **Article 19 of the Convention: The right to live and be included in the community**, which proposes accommodation and other services specially regulated by the Law, is still based on exercising control over the lives of users by service providers, and not by providing support and protection of human rights and freedoms of users. Also, in relation to deinstitutionalisation, there is an obvious difference between children and adults. **Therefore, we suggest that Article 96 of the Act, referring to imposing time limits on keeping children in institutions, be extended to other potential users of accommodation services, especially to persons with disabilities, since according to the latest information, over 8,000 persons with disabilities have been placed in institutions.** In spite of the Article 24 of the Convention, the Article 143 of the Social Welfare Act stipulates the following: "The social welfare homes established by the Republic of Croatia, can provide primary and secondary school education programmes". On the other hand, providing assistance in inclusion into education programmes (integration) remains prescribed by this Act only in principle, which gives a strong impression of this service being merely a "decoration" in the Act.

Overall, it is clear that the Social Welfare Act aims to preserve the existing model of special education for persons with disabilities, provided within the social welfare system, while offering no support to enable these persons to become included in the regular education system. Specific issues that the Act does not address are those connected to employment of persons with disabilities who are using some of the social services. **Namely, if persons with disabilities who use the accommodation service manage to find employment, they are obliged to give their entire salary for covering the cost of their accommodation, since the price of accommodation service usually greatly exceeds the amount that these persons could earn.** It is extremely hard to figure out what interest would a disabled person have in finding employment, when even without any work they can acquire exactly the same range of material and financial rights at the expense of the Ministry. In order to truly encourage employment of persons with disabilities, one must ensure a great deal of very specific support, reduce bureaucracy and administration, while enabling the users of social services to retain a certain part of their salary.

The Government and the Ministry of Social Policy and Youth **still refuse to provide the service of personal assistant to all persons with disabilities, and they have no wish to include this service into the Social Welfare Act.** A year ago, the Ministry of Social Policy and Youth formed a working group for drafting changes to the Family Law, but there are still no information as to who are the group members, how the group operates, what topics they discuss, or if they are dealing only with changes and amendments or drafting the new law. Altogether, the Ministry of Social Policy and Youth has conducted this process, as well as the process of deinstitutionalisation and the process of drafting a new Social Welfare Act, in the most untransparent manner, with very little or no public participation.

Due to all of the aforementioned, but also due to numerous other reasons, we hope that the near future brings a wide process of consultations and public discussions aimed at adopting the new Social Welfare Act and the new Family Law, all in the context of creating a new and inclusive social policy.

<u>Establishing effective mechanisms for exercising labour rights</u>

Instead of improvements of labour rights we are witnessing **continuous attempts to diminish the guarantees of labour rights protection, with the alleged purpose of ensuring a more flexible employment and facilitating the business of employers. The biggest setbacks took place in relation to this area. Fight against a deep economic crisis should definitely facilitate the business of employers, but the cause of their difficulties are not the workers or the Labour Act, but extremely complex bureaucracy, lack of incentives for start-up**

companies, increased taxes, inefficient public administration and a lack of vision of the Croatian economic development. Even though the employers themselves have listed these matters as the key obstacles in conducting their businesses, the Government keeps holding the workers responsible for the economic crisis, which is in direct contradiction with its programme and its commitment. **Therefore, the Government is preparing changes to the Labour Act that would introduce a unified "single open ended" contracts (and abolish permanent contracts).** which would put employees into a long-standing disadvantaged position towards employers due to allowing the possibility of contract termination without a valid reason (during and after the trial period), due to overall decrease of employers' obligations towards employees and the state, as well as due to reduction of labour rights. Such contracts treat all employees as temporary staff, while promoting "part time"employment aiming to allow taking up several positions at the same time. Rights of employees to organise in unions are endangered, especially in the private sector, while **there is almost no social dialogue.**

Effective and truly independent citizen supervision over security mechanism: army, police and security-intelligence services

During 2012, all flaws of the security mechanism caused by the lack of effective and independent citizen supervision came into light. On two occasions the local media have published information on potential unauthorised secret collecting information by police, which have allegedly involved the Head of SOA (Security and Intelligence Agency), the State Prosecutor, private entrepreneurs and journalists. These "affairs" have resulted from the fact that the secret measure of acquiring a list of telephone numbers by the police, does not require a court order, but the decision is left to the Head of the Criminal Police Department of the Ministry of the Interior or to the person authorised by them.[3] The same procedure applies to acquiring lists of telephone calls by security-intelligence agencies, where orders for this measure are authorised by leading officials of the Security-Intelligence Agencies through written and detailed orders within their prescribed scope of work. The lack of independent supervision over measures of secretly collecting information by the Ministry of the Interior, became obvious thank so the "Croatian Watergate" affair, which lead to conflict between political parties resulting in filing requests for lists of telephone numbers, which in the end caused an extraordinary public reaction. **Investigations were conducted by the Domestic Policy and National Security Committee, but the public received no feedback on exceeding the given authority and potential political character of the measures taken. On the basis of these affairs we can draw a justified conclusion that a lack of supervision leads to a realistic possibility of daily abuse of police authority in relation to the measures of secretly collecting information.**

Apart from the aforementioned, due to an information leakage, in January the public was informed that USKOK is currently investigating a non-purpose expenditure of two and a half million HRK incurred by the Military Security-Intelligence Agency, as a result of which two of the allegedly involved generals were supposed to have been suspended. **One of the requests made by Platform 112 referred to giving evidence of expenses incurred by the Military Security-Intelligence Agency within the defence section of the State Budget, which would contribute to greater transparency of the Agency and prevent the non-purpose expenditures.**

Platform 112 has supported a proposal made by the Centre for Peace Studies and an independent expert Đuro Labura, to urgently adopt a **special Law on the Citizen Supervision over the security mechanism that would regulate the citizen supervision over both, Security-Intelligence Agency and police work** in order to:

[3]Law on Police Tasks and Jurisdiction (OG 76/09), Article 68.

a) define new, **unique and fully independent body for conducting supervision over security-intelligence agencies and police** in relation to applying the measures of secretly collecting information, which would also be allocated an adequate office;
b) the supervision body would include **representatives of civil society organisations dealing with human rights protection, academic community representatives dealing with security issues and issues of citizen rights, and experts for the measures of secretly collecting information**. We request that the body members be selected by the Council for Civil Society Development in order to avoid any political influences and arrangements involving the members. The members cannot be members of political parties and must be highly competent in human rights issues and other relevant specialties;
c) the body must have a clear **authority of unannounced and completely open access to all institutions and individuals engaged in applying the measures of secretly collecting information, including the Operational-Communication Centre,** and the authority to freely inform the public on identified violations of citizens' human rights through the use of measures for secretly collecting information and distortion of professionalism and depoliticisation of the system when justified by protection of public interest, including the necessary protection of national security and personal information;
d) **measures of secretly collecting lists of telephone numbers** (whether by security-intelligence agencies or by the police) **must be put under judicial supervision**, i.e. applying these measures would require approval of the competent court in order to evaluate justification and necessity of such requests;
e) Domestic Policy and National Security Committee should be open to appointing **external expert members** who would improve the work of this Committee and contribute to gaining greater citizen confidence into parliamentary institutions in charge of supervising the national security;
f) **Urgent termination of a long-term practice according to which the Minister of the Interior also has a function of the Government member in charge of the national security**, which also includes the function of the President of the Council for the Coordination of Security-Intelligence Services, since this leads to concentration of all of the security-intelligence information in one person.

Regardless of the fact that in our previous report we mentioned the process of creating the National Security Strategy of the Republic of Croatia as an important improvement, the work group in charge of drafting the Strategy failed to meet the set deadlines, so drafting the Strategy is now behind schedule. The improvement was made through a transparent Government decision showing clear deadlines for drafting the Strategy, while also including the public discussion that should be held in relation to this document. An important step forward was also clear from the fact that for the first time, drafting the Strategy is not coordinated by the Ministry of Defence, but the Ministry of Foreign and European Affairs.

With regard to parliamentary issues, the Domestic Policy and National Security Committee was not open to external members, which contributes to a lack of transparency and citizen supervision over the Croatian security policy.

Promotion of human rights and peace-building in foreign policy issues of the Republic of Croatia through international development cooperation

In the first year of the new Government, **there was a sharp turn in Croatian foreign policy priorities towards human rights protection** visible through including them to the list of priorities of the Croatian international development cooperation. **For the first time, these priorities included protection of human rights, women's rights, peace-building and assistance in civil society development. In addition, one of the priorities is to provide assistance to the countries in the region in the process of accessing the European Union.**

An interdepartmental coordination has been established, regular meetings are held, which include civil society members, as well as representatives of the Government Office for Cooperation with NGO's. **The Ministry of Foreign and European Affairs supports the foundation of the Platform of non-governmental organisations for providing the international development cooperation (including financial assistance).**

With regard to our request for a significant increase of funds allocated for the international development cooperation and humanitarian aid in 2013, no improvements were made. On the contrary, the amount has been reduced. Nevertheless, we can talk about positive trends in respect to this group of requests. Firstly, we would like to point out the increased capacities of the Ministry of Foreign and European Affairs for handling these matters, openness of the Ministry for cooperation with civil society in this area, clear selection of topical and geographic priority tasks, and support for development of structures for international development cooperation. The issue of coordination between various ministries and implementation of political and operational shift announced by the Ministry of Foreign and European Affairs and the Minister Vesna Pusić, remains a problem.

Assessment of the Government performance with regard to the legacy of war, confronting the past and peace-building

Not once have the unresolved traumas and differences from the past poisoned the relationships and worsened the quality of life for the future generations. We believe that changing this pattern is the task of the society as a whole. In order to achieve that, we find it necessary to deal with the heavy burden of the past consistently, free of bias – an act that sometimes requires courage, but almost always indicates democratic maturity of the society.

We request that the Government make concrete improvements directed primarily towards the following:

- ✓ Efficient and non-selective investigation and processing of war crimes;
- ✓ Shedding light on the faiths of all persons who went missing in wars in the area of the former Yugoslavia and giving support to the REKOM Initiative that advocates the founding of the Regional commission for determining the facts on war crimes and other heavy breaches of human rights;
- ✓ Assuming responsibility by the state for damages incurred, unauthorised investment, housing programmes, and resolving the status and legal issues concerning employment of the victims of war activities.

In Croatia, war crimes perpetrators are increasingly hard to process. In Croatian society there is still no atmosphere in which one would testify against the perpetrator from "one's own side". The interest of the local, as well as international public, for the issue of war crimes is decreasing. Due to these facts, we fear that perpetrators and their commanding officers will remain unsanctioned, especially at the highest levels. However, we are pointing out the necessity of shedding light on the circumstances of committing all of the war crimes, and the necessity of sanctioning the perpetrators. Only in this way we will be able to provide justice for victims and prevent similar conflicts in the future. **The State Attorney's Office's (DORH) war crimes database, set-up over the recent years, comprises information on crimes, victims, evidence and known perpetrators. There are 490 crimes and 13,743 victims recorded. Until 30th September 2012, DORH had information on the perpetrators of 316 crimes, while there was no information about the perpetrators of 174 crimes. However, only 112 crimes (22.86 %) have been fully processed.**

In 2012, we gave positive evaluation to initiating or continuing hearings in several war crime cases involving killing or abuse of a large number of persons of Serbian nationality. For many

years, there has been no political willingness to process these crimes. In 2012, the Supreme Court of the Republic of Croatia reached a decision that allows ordering a compensation for damage to victims of war crimes, regardless of whether the perpetrators of these crimes are known or unknown. The support system for victims and witnesses, developed over the recent years, was not developed further in 2012[4].

In addressing the public immediately after The Hague Tribunal pronounced the final sentence to the Croatian generals, President Josipović and Prime Minister Milanović emphasised that crimes were committed during and after the military-police operation "Storm" and that the Croatian judiciary should process these crimes. **Due to the fact that there are still no legally binding sentences ordered by Croatian courts for war crimes committed during and after the operation "Storm", there is fear that these crimes will largely remain unprocessed.** There are three separate criminal proceedings conducted for these crimes before Croatian courts against ten persons in total. Relations between Croatian and Serbian governments, burdened with numerous problems from earlier periods, have deteriorated after the change of power in Serbia in May 2012, and got worse after Croatian generals Gotovina and Markač were acquitted by the International Criminal Tribunal for War Crimes Committed in Former Yugoslavia in November 2012.

Only normalisation of relationship and signing international treaties relating to war crimes processing between countries in the region, would contribute to more efficient prosecution of the perpetrators. Croatian President Ivo Josipović, Macedonian President Gjorge Ivanov and President of Montenegro Filip Vujanović have appointed personal envoys for REKOM who will take part in activities of the Regional expert group for reviewing the draft Statute proposed by the RECOM Coalition, and legal options for establishing REKOM.

Since the beginning of the work of the new Government, the issue of charging lawsuit costs to victims of war crimes has not been fully resolved. Out of 118 cases, recorded by Documenta, in which Croatian citizens, family members of civilian victims of the Homeland war, requested compensation from the Croatian state, 15 requests have been accepted, while 83 claims have been rejected. In 72 rejected cases, the court has also ordered the plaintiffs to cover the lawsuit charges in the total amount of 2,041,691 HRK. According to the analysis of the additional 105 cases of civilian victims of war[4], in 92 % cases, the injured parties requested compensation and were able to exercise their social rights. In over 75 % of cases, obstacles for exercising greater rights are the limits imposed by the Law on the Protection of Civilian and Military War Invalids. Therefore, they are facing or their property is already under execution. These are mostly unemployed middle-aged or retired persons with a modest income, who will be denied their rights by the state, once it starts taking one third of their pension through execution.

Although in July 2012 the Government adopted a Regulation on ensuring write-off of lawsuit charges to socially vulnerable plaintiffs, this urgent problem has not been completely and successfully resolved. At the moment, there is still **no single documented legally binding decision based on the aforementioned Regulation**. President Ivo Josipović stated that charging lawsuit costs represents "the third level of victimisation of injured parties "[5]. He emphasised that the families have filed claims against the state because it failed in fulfilling its duties – of locating and sanctioning the perpetrators of crimes, and that the courts rejected these

[3]According to draft Report on monitoring war crime trials for 2012, Documenta, Civic Committee for Human Rights and Centre for Peace, Non-Violence and Human Rights, Osijek

[4] Investigation report entitled Civilian Victims of War in Croatia - Needs, practice, recommendations, Documenta, 2012.

[5] Conference Civilian Victims of War in Croatia – Right to legal remedy and reparations for victims of criminal offences against values protected by international law, Zagreb, 9.11.2012.

[6] Based on the provisions of the Law on Responsibility for Damage Caused by Terrorist Acts and Public Demonstrations, OG 117/03

claims because the families were unable to prove who the perpetrators were. He pointed out that the Regulation is insufficient and that he expects the Government to make improvements.

In most cases, the crime perpetrators were not convicted, and Croatia, instead of easing the suffering and paying respect to victims in form of material compensation, now "blocks" the accounts of the families of victims. Compensation of damage is now paid primarily in cases of legally binding sentences, which are very few. **At this moment, we have only one case completed with an invalid sentence (Jovan Berić and others v. RH) initiated through repeated proceedings before the Municipal Court in Knin, in accordance with the opinion of the Croatian Supreme Court[6] according to which the victims of war crimes may be compensated regardless of whether the war crime perpetrator is known or unknown**.

The following is the summary of a sad case illustrating the magnitude of the aforementioned problem. In late 2012, an execution was initiated over the property of Radmila and Milana Vuković, whose claim for non-material compensation due to death of their family members has been rejected. The Vuković sisters have lost their parents, Milutin and Cvjeta, younger sister Dragana, who was only seven years old at the moment of death, uncle, aunt and their two children. During operation "Flash", on 1st May 1995 in Medari, members of Croatian forces killed twenty two civilians, out of which three children and eleven women. Perpetrators did not stand trial. The case is in pre-investigation phase. In November 2009, Municipal Court in Nova Gradiška rejected the claim filed by the Vuković sisters as unfounded, while the Civil Administration Department of the Municipal State Attorney's Office in Zagreb rejected the request for an out-of-court settlement due to the fact that, according to their opinion, the death of civilians was a consequence of war activities (casualty of war), and not a consequence of a war crime. Property to be seized in execution refers to houses owned by the Vuković sisters that were destroyed during the war.

In accordance with the aforementioned problems of the civilian victims of war, the Government should do the following:

- Reach a **decision enabling a direct write-off of charges for lost lawsuits to all plaintiffs/injured parties**, who failed to win compensation for non-material damage due to death of a family member;
- Provide **reimbursement for those who failed to win compensation for non-material damage due to death of a family member**;
- Provide **reimbursement for those who already covered the lawsuit charges or whose property has been confiscated**;
- Adopt **legal regulations for status and indemnification of all civilian victims of war, as well as the National Indemnification Programme and the Act on Establishing the Indemnification Fund for all Victims of War** (Fund for rehabilitation, reintegration and reparations);
- Adopt the announced **Law on the Victims of Sexual Violence in War**.

It is necessary to **annul the Law on the Nullity of the Certain Legal Acts of the Legal Bodies of the Former JNA, Former SFRJ and The Republic of Serbia**, a legally inapplicable and declaratively harmful act that undermines the relationship between Croatia and Serbia. **It is necessary to change Article 98 of the Law on Police Tasks and Jurisdiction, on the basis of which the Ministry of the Interior settles the court expenses to its former or present members charged with war crimes**. In order to improve support for the victims of sexual violence committed in war, **it is necessary to urgently establish teams and educate staff in all state bodies dealing with victims of sexual violence.**

Housing problems involving returnees and former tenancy rights holders

There has been no progress recorded in relation to housing issues, although certain new Government officials acknowledged that the problem exists and announced specific actions. Resolving housing problems of returnees and former tenancy rights holders has not been arranged in a unified way, but through particular regulations, which discriminates the citizens of Serbian nationality. Housing issues of the tenancy right holders are a blatant example of not applying, i.e. violating Croatian laws and international treaties. **Considering that claims for compensation are filed and executions are conducted against the tenancy rights holders and persons entitled to housing arrangements, an urgent government reaction is necessary in order to stop this discriminatory practice.**

The most recent and the most urgent example of discrimination is an action taken by the State Attorney's Office and police in which they are raising charges against the returnees of Serbian nationality who spent less than six months in renovated housing units. Namely, at the same time, persons of Croatian nationality - veterans, members of the Croatian Defence Council from Bosnia and Herzegovina and Croatians who are using socially owned apartments in liberated territory on the basis of the most recent changes in legislation – are entitled to use donation contracts in order to acquire permanent ownership, completely free of charge, houses or apartments in which they live, on one single condition, that they cannot sell or confiscate them in the next ten years. There was also a possibility to increase the housing space that has been prescribed in housing arrangements and renovation until now – 10 m^2 increase for apartment, and 20 m^2 increase per household member for family houses. **Stopping these discriminatory activities should be one of the priorities of the new Government. In addition, buyout for returnees of Serbian nationality has been made difficult by introducing high buyout prices (prices should be reduced to a level from early 1990's when the property was confiscated) and by unequal status of housing units inside and outside of the area of the special state concern.**

Although the new Government has acknowledged the existence of not 11, but 14 unresolved cases of unauthorised property investment and announced that these cases will be resolved soon, no visible improvement has been made yet. In the meantime, the State Attorney's Office has, in line with provisions of the changes and amendments to the Law on the Areas of the Special State Concern, on behalf of the Republic of Croatia and instead of the owners, initiated proceedings against the temporary occupants, which in some cases resulted in removal of the execution note (due to alleged debts to the temporary occupants) from the property, which has set the scene for contractual resolution of relationship between the property owners and the Republic of Croatia. However, the relevant Ministry has not yet prepared the contracts that would compensate the owners for the value of their property, initiated renovation of property or gave ownership over replacement property in cases where renovation is not cost effective. **Reluctance of the competent persons in the Ministry of Regional Development and EU Funds to start drafting the contracts with the property owners is equal to that exhibited by the previous government and there were no personnel changes regardless of the inefficiency shown in their previous mandate.**

Not even after two years has the Supreme Court of the Republic of Croatia passed a judgement in proceedings of judicial review of the legally binding sentence by which Mrs Milica Miladinović (whose house has been completely devastated by a temporary occupant) owes 300,000 HRK to the same temporary occupant for his alleged investment in her property. This case shows that even in the case of such obvious injustice involving a series of illegal activities, the state shows no intention of taking responsibility for the injustice and damages incurred.

On the other hand, the issue of tenancy rights[7], in terms of holding and inheriting thereof, has not been resolved yet, which reflects the complexity of this issue, as well as the lack of political will. In spite of the fact that the Constitutional Court Decisions reached in 1997, 1998, 1999, 2006 and 2007 state that the Leases Act is unconstitutional and illegal since it was used to revoke the acquired tenancy rights (in 1974, the tenancy rights were a Constitutional category, representing the permanent proprietary and inheritable rights), to degrade the tenancy rights holders into subtenants, and due to its implementation, approximately 3,000 families were thrown out on the street. For years, the Ombudsman is issuing warnings in his reports stating that the Leases Act is unconstitutional and illegal, and requesting that the Government and the Parliament legally regulate these relations in order to impose legal safety and equality of citizens before the law.

On the basis of the policy study sent to the Government in May 2012 by the Alliance of Tenants' Associations of Croatia, which the Government forwarded to the Ministry of Construction and Physical Planning and the Ministry of Justice requesting urgent procedure, **we request that the Leases Act be abolished, the cancellation of buyout of these apartments and termination of all court proceedings and executions held before Croatian courts. However, there have been no steps forward ever since**. **The Ministry of Construction and Physical Planning shows no intention of creating a draft of the new Law, plans to introduce changes and amendments of the Leases Act.** This is evident by looking into the Government Annual Work Plan for 2013, and by statements made by the Minister of Construction, which anticipate the new legislation by saying that there is no mention on buyout of these apartments.

Due to its complexity related to disintegration of the former state, this problem has caused international disputes which were resolved by the Vienna Agreement on Succession Issues signed by the successor states of the former Yugoslavia in 2001. Annex G of the Vienna Agreement clearly states that any movable or immovable property in any of the successor states that the citizens or other legal persons in SFRJ were entitled to on December 31st 1990, will be recognised, protected and returned by the respective state in accordance with the international legal standards regardless of the nationality, citizenship, whereabouts or residency of these persons. In addition, every agreement made by the citizens or other legal persons in SFRY until December 31st 1990, including those concluded with public enterprises will be respected without discrimination. The successor states will ensure that the obligations arising from such agreements be fulfilled in cases where the disintegration of the SFRY prevented the implementation thereof. **We wish to point out that further to the Act on Ratification of the Agreement on Succession Issues, Croatia formally assumed all obligations arising from this Agreement, but it fails to fulfil them and thus violates the international treaty.** The international implications of this issue were set forth by Raquel Kilnik, UN Special Rapporteur on housing rights, in chapter D of the Report on violations of human rights of tenancy rights holders and confiscated property in Croatia[8], submitted to the UN General Assembly held on December 30th 2010.

[7] Pursuant to SFRJ Constitution Article 164 paragraph 1 and the Constitution of the Socialist Republic of Croatia (SRH) Article 242 paragraph 1, Croatian citizens had tenantship rights guaranteed by the Constitution. The earlier Housing Relations Act, which was in accordance with the SFRJ and SRH Constitution, has levelled the tenancy rights in the following manner: Article 3 paragraph 2 Rights and duties from paragraph 1 of this Article also refers to persons who acquired tenancy rights over apartments owned by citizens in accordance with the earlier regulations (OG 52/74). This provision referred to every tenant who acquired tenancy rights over apartments in somebody's possession prior to 26.12.1974, when this Act came into force.

8 „VIII. Conclusions and recommendations 80. The Special Rapporteur also encourages the Government to define and unify tenure arrangements applicable to those with similar housing rights from the outset, including the possibility to purchase under favourable conditions the houses in which they reside."

Platform 112 is composed of the following organizations:
B.a.B.e., Centre for Education, Counselling 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.

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