

//GOVERNMENT ATTACKS ON CIVIL SOCIETY IN
CROATIA

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SUMMARY

For almost two decades, the governments of the Republic of Croatia worked on building a system of institutional support for civil society with three pillars – the Government Office for Cooperation with NGOs, the National Foundation for Civil Society Development and the Council for Civil Society Development – only to begin systematically dismantling that same system starting in 2016, with the aim of silencing and weakening civil society.

At the time of writing, in 2020, there is still no strategy for civil society development, personnel policies led by the Prime Minister have resulted in staff working at the pillars of support limited to those who are his trusted associates, the Council for Civil Society Development is unlikely to continue to function as a body through which civil society organisations can influence government policies concerning civil society, and finally, the elections for civil society representatives in the European Economic and Social Committee were a compromised process marred by a lack of transparency.

At the same time, financial exhaustion and administrative violence are being perpetrated against civil society organisations in Croatia through the European Social Fund, the Efficient Human Resources Operational Programme 2014-2020 managed by the Ministry of Labour and the Pension System. Specifically, the program has not complied with the tender announcement calendar, tenders have not been published, they have frequently been suspended or cancelled, there have been delays in responding to inquiries and requests, complex rules and procedures, inconsistency among implementing bodies and vague answers given to questions, all marked by lack of flexibility and transparency. For example, under the Good Governance priority axis, no tenders have been published in the past 6 years on the topics of corruption, conflicts of interest and transparency (the very essence of good governance), except for a tender at the end of 2018 requiring that CSOs partner with (often corrupt) local governments to work on anti-corruption and conflict of interest prevention projects.

Many civil society organisations are suffering from burnout and exhaustion, and have been at brink of existence for a long time, with less and less time for the most important part of their job and their very reason for existence – solving social problems and creating positive social change.

The 2014 Partnership Agreement between Croatia and the EU for the use of the European Structural and Investment Funds (ESIF) states that “Croatia is committed to supporting social dialogue and an independent, diverse civil society through a wide range of cooperation modalities supported by ESF. The ESF will help to enhance social dialogue and develop innovative and effective partnerships between the public authorities and civil society, enabling them to make effective contributions to policy-making and promote changes on a wide range of issues (e.g. transparency, non-discrimination, social progress, green growth, etc.).”

Sounds nice.

I. CIVIL SOCIETY AND THE STATE – FROM BUILDING COOPERATION TO COLLAPSE

“Civil society assumes that citizens, organised in various groups, initiatives and organisations or even individually, participate in the public political process, representing different interests and values”¹. Civil society is a space for initiative and freedom, but also of action in accordance with the highest values of the constitutional order².

The National Strategy for the Creation of an Enabling Environment for Civil Society Development 2012–2016 defines civil society as the “active relations between citizens and public policy, services and affairs, ranging from participating in public debates and influencing the creation of political priorities, through specific initiatives aimed at certain political and legal measures, to taking over those public affairs that the state and public institutions cannot accomplish either at all, entirely or with sufficient quality”³.

About 50,000⁴ CSOs and associations in Croatia, make a significant contribution to shaping a better and more equitable society through civic initiatives by performing various socially important activities, largely through volunteer work, on a national and local level. These can include advocating for and protecting the human rights and vulnerable groups, actively participating in the formulation of regulations, programmes and strategies, and conducting social and public services of general interest in the fields of education, health, social welfare, sports, etc.

Robust democracy is impossible without CSOs and civic initiatives, which are the most important elements of a civil society. Along with the media, they are the watchdogs of democracy⁵ and act as a corrective to the government because they supervise state institutions and government officials, hold them accountable to their electoral promises, warn the public about existing problems and put new ideas and topics on the political agenda. **The extent to which civil society can act as a corrective force to policies that have an adverse effect on members of society made by political elites depends on civil society’s level of development and its strength.**

The role of the state is firstly to ensure freedom of public expression, assembly, association and action, followed by developing a stimulating framework within which civil society can grow and become strong. In so doing, it is important that CSOs remain independent in their

¹National Strategy for the Creation of an Enabling Environment for Civil Society Development 2012 – 2016, page 5

²If civil society organisations act contrary to the values from Article 3 of the Constitution of the Republic of Croatia, seeking, for example, to limit the rights of minority groups, then these are only civil society organisations by name, but not by character.

³National Strategy for the Creation of an Enabling Environment for Civil Society Development 2012 – 2016, page 6

⁴On 27 May 2020, there were 50,308 registered active CSOs and associations in Croatia.

⁵The English term “social watchdog” from the case-law of the European Court of Human Rights was translated into Croatian as “društveni čuvar” in the decision of the Constitutional Court of the Republic of Croatia in the case of Gong v. the Government of the Republic of Croatia (U-III-5112/2011)

operations and retain their role as critic, while at the same time have access to public financing.

Since the beginning of the 2000s, this was the course set for the development of cooperation and support for civil society, albeit with some bumps and bruises along the way.

This changed beginning in 2016, and now the exact opposite has happened. The government has decided to actively prevent the development of civil society, and even put into question its very survival, especially that of organisations that do not fit into the right-wing ideological framework of those in power.

The framework of support and cooperation between the state and civil society, which had been built up over decades, has almost completely collapsed, with organisations facing financial and administrative exhaustion and organizational weakening thanks to the implementation of EU funds, especially the European Social Fund and the Efficient Human Resources Operational Programme 2014-2020, both managed by the Ministry of Labour and the Pension System.

BUILDING UP A SYSTEM OF COOPERATION

The development of a support system for the growth of civil society began in 1998 with the establishment of the Government Office for Cooperation with NGOs, continued in 2002 with the establishment of the Council for Civil Society Development as an advisory body to the Government and the adoption of the Games of Chance Act, which mandates that 50% of the annual and monthly fees collected from organising games of chance go towards CSO programmes. Later, in 2003, the National Foundation for Civil Society Development was established with the purpose of promoting and developing civil society, followed by the *Kultura Nova* Foundation for the development of civil society in the field of contemporary culture and art in 2011. As part of the reform of the institutional, normative and financial framework for civil society activities, revisions were made to the normative framework in subsequent years, with the adoption of a new CSOs and Associations Act⁶ in 2014, as well as the Financial Operations and Accountancy of Non-Profit Organisations Act⁷ and the Directive on the Criteria, Standards and Procedures for Financing and Contracting Public Interest Programmes and Projects Implemented by CSOs and Associations⁸. However, these regulations have led to a **decrease in CSOs management flexibility, a significant increase in reporting and administrative work done by CSOs (which are increasingly investing in activities unrelated to their original purpose) and have increased state control over civil society**⁹. The National Strategy for the Creation of an Enabling Environment for Civil Society Development was

⁶ OG 74/14

⁷ OG 121/14

⁸ OG 26/215

⁹ Uvođenje reda u udruge: poticajno okruženje ili nadzor civilnog društva?, T. Domes i K. Pavić, 2016

https://www.clubture.org/system/publication/pdf/28/udruge_kb.pdf

adopted in 2012, and in 2016 the participatory process of drafting a new strategy for the 2017-2022 period began, the draft of which passed the public debate stage in 2017.

The Draft of the National Strategy for the Creation of an Enabling Environment for Civil Society Development 2017-2021 foresees cooperation between the Government of the Republic of Croatia and civil society through a **strategic framework** for creating an enabling environment, an **institutional and normative framework** for government-civil society cooperation, **financial support** for the sustainability of CSO programmes and **consultation standards** for the participation of CSOs in policy-making and implementation. The same document states that “the creation of an environment conducive to the development of civil society is one of the preconditions and measures of democracy, as well as the stability of the social and political system of every country”.

CRUMBLING EDIFICES

However, starting in 2016, during the aftermath of parliamentary elections held in November 2015, a coalition government was formed between the so-called Patriotic Coalition (*Domoljubna koalicija*) and the Bridge of Independent Lists (*Most*), led by non-partisan Prime Minister Tihomir Orešković. In many ways, that government used a slow erosion approach to destroy the already constructed system, adversely affecting the development of civil society by narrowing its space through starvation and exhaustion.

The first measure by Orešković's short-lived Government, was passed in in a special telephone session. The Directive on the Criteria for User Identification and Distribution Manner of Share of Profits from Games of Chance for 2016 aimed to reduce resources, especially for the sectors whose main focus was scrutinising the Government, its very passing deviating from the democratic procedures and norms that had been established. As a result, the President of the Council for Civil Society Development and its members from the ranks of civil society tendered their resignations¹⁰.

“The adoption of the Directive on a topic that is currently being discussed at a meeting of the Council for Civil Society Development of that same Government, during a telephone session no less, is either a pre-designed plan or a decision conditioned by a certain influence. Civil society in Croatia is in this manner losing a significant source of funding for socially beneficial projects, for the development of public policies, social welfare and pluralism, while the entire system, which has been built over years and with international recognition, has been called into question without the possibility of improvement”, said the then Croatian MEP Davor Škrlec,

¹⁰ Vlada izigrala Savjet za razvoj civilnog društva, predsjednica i dio članova podnijeli ostavke, 23.4.2016, <https://h-alter.org/vijesti/vlada-izigrala-svoje-savjetodavno-tijelo-clanovi-savjeta-za-razvoj-civilnog-drustva-podnijeli-ostavke>

who added that *“with this, the Government had finally carried out its threat of a significant funding cut to the National Foundation for Civil Society Development”*¹¹.

The next government, led by Prime Minister Plenković, approached the process even more thoroughly. First, Plenković staffed the Foundation for Civil Society Development with people loyal to him, followed by the Government Office for Cooperation with NGOs, a move in which Minister Pavić, then the Minister of Labour and the Pension System, later Minister of Regional Development and EU Funds, played an important role.

This was done so that first, new members were appointed to the Board of Directors of the National Foundation, which at its first session adopted a new Ordinance on the Organisation of Specialist Services, which created the position of Deputy Director. Luka Bogdan was appointed to that position, and he, like Pavić, had been Prime Minister Plenković's assistant during his mandate in the European Parliament and active in the Institute for the Professional Development of Youth (ISUM). Many subsequent Foundation appointees were to come from ISUM,¹² with a mandate to keep an eye on the development of civil society even though they themselves do not actually essentially understand it - or perhaps, precisely because of their ignorance.

The Ministry of Labour (led by Pavić) and the National Foundation (where Bogdan was now deputy responsible for EU programmes), are the key bodies for withdrawing funds from the European Social Fund, since the Ministry is the managing body in the fund and the Foundation is the intermediary body.

Emina Bužinkić, the then President of the Council for Civil Society Development, in an interview for H-Alter in 2018, described the situation as follows:

“Until recently, we were going about our business, discussing the triangle model (Government Office – National Foundation – Council), which had marked significant progress in Croatian civil society and its contribution to democratisation, as well as the democratisation of political institutions. The National Foundation for Civil Society Development has now become a place of cockfights and whose management, programming and allocation of institutional support have been shaped with the aim of achieving social peace, by allocating financial support to various parties and, as it seems, to satisfy the needs of those close to the HDZ. And all this is happening under the guise of strengthening pluralism. The Foundation is simply no longer an independent institution that promotes democratisation and human rights, but is instead an institution that has clearly opted for a course that will bring more and more opportunism and harm. One example is the appointment, staffing and political recruitment of the Prime Minister's “confidants” at all levels of the National Foundation. This is not merely a conflict of interest, as

¹¹ Orešković mora javno obrazložiti odluku Vlade o ukidanju financiranja za udruge, 25.4.2016, <https://www.vecernji.hr/vijesti/davor-skrlec-tihomir-oreskovic-mora-javno-obrazloziti-odluku-vlade-o-ukidanju-financiranja-za-udruge-1079172>

¹² Mladunčad HDZ-a, 23.2.2020, <https://www.portalnovosti.com/mladuncad-hdz-a>

the newspaper Novosti claims¹³, here instead we have the brothers and sisters of the Prime Minister's closest allies employed as associates and staff at a propulsive institution for funding "real" civil society. We also have policies that seek to infiltrate and situate this same group of loyalists at all levels of society. The Foundation has now been placed under the direct political control of the Prime Minister and his confidants, which has never been the case until now¹⁴.

In May 2018, the Government appointed Helena Beus, the then head of the Department for Youth at the City of Zagreb, but also Pavić's and Bogdan's associate on ESF projects,¹⁵ as the Director of the Government Office for Cooperation with NGOs. Civil society organisations agree that Ms. Beus does not have the capacity to develop civil society, but has instead become "a reliable lightning rod that protects state bodies from the inquiries of civil society"¹⁶.

The Government Office for Cooperation with NGOs is also an intermediary body in the ESF, so most tenders for civil society are in the hands of the aforementioned triangle – the Ministry of Labour and the Pension System, the National Foundation for Civil Society Development and the Government Office for Cooperation with NGOs. In the second part of the analysis, we will demonstrate its Bermuda Triangle Effect.

It should also be pointed out that the Ministry of Labour and the Pension System, headed by Minister Pavić, has been avoiding commenting on the Draft of the National Strategy for the Creation of an Enabling Environment for Civil Society Development 2017-2022 since 2017. When the statement was finally formulated, it was inaccessible to the public for months.¹⁷ This was of no importance however, because in the meantime, the entire process of Strategy adoption was abandoned^{18, 19}.

It is interesting to note that Minister Pavić requested that information on specific tenders from the European Social Fund, i.e. from the Efficient Human Resources Operational Programme 2014-2020, be omitted from the Strategy.

After all these success stories, Minister Pavić took over the Ministry of Regional Development and EU Funds in mid-2019, responsible for overall coordination, and especially the preparation, monitoring and evaluation of EU programmes.

¹³ Mladunčad HDZ-a, 23.2.2020, <https://www.portalnovosti.com/mladuncad-hdz-a>

¹⁴ Premijer Plenković i njegovi vragovi, 13.3.2018, <http://www.h-alter.org/vijesti/premijer-plenkovic-i-njegovi-vragovi>

¹⁵ Črnkas se predstavio na konferenciji koju je u Bruxellesu organizirao Andrej Plenković, 23.6.2016, <https://www.poslovnih.hr/poduzetnik/crnkas-se-predstavio-na-konferenciji-koju-je-u-bruxellesu-organizirao-andrej-plenkovic-314579>

¹⁶ Vladin Ured za udruge krši zakon zbog zaštite ministra Pavića, 24.10.2019, <https://faktograf.hr/2019/10/24/vladin-ured-za-udruge-krsi-zakon-zbog-zastite-ministra-pavica/>

¹⁷ Vladin Ured za udruge krši zakon zbog zaštite ministra Pavića, 24.10.2019, <https://faktograf.hr/2019/10/24/vladin-ured-za-udruge-krsi-zakon-zbog-zastite-ministra-pavica/>

¹⁸ Civilno društvo na čekanju, 4.4.2018, <https://www.gong.hr/hr/aktivni-gradani/civilno-drustvo-na-cekaju/>

¹⁹ Spriječite daljnje urušavanje civilnog društva, 5.11.2018, <https://www.gong.hr/hr/aktivni-gradani/civilno-drustvo/pavic/>

Antagonistic statements made by members of the ruling majority about civil society would continue during Plenković's term in office²⁰. Civil society has not been consulted or involved in drafting the priorities of Croatia's EU Council Presidency. The marginalisation of the Council for Civil Society Development continued and representatives of civil society organisations in the Council were again all but excluded from the process of adopting the Regulation, as well as the planning and management of tenders from the European Social Fund. The last public consultation of the Government Office for Cooperation with NGOs on the draft of the key elements of the planned tender was conducted in August 2018.

In May 2020, the constituent session of the Council for Civil Society Development was held with a new mandate, at which public sessions were deleted from the Rules of Procedure,²¹ the positions of the President of the Council and the Deputy President were strengthened, as well as the powers of the Government Office for Cooperation with NGOs. At the same time, the influence of the members of the Council was weakened, after which representatives of government bodies elected a new President of the Council, out-voting CSO members. *"According to the new Rules of Procedure, decisions can be made without holding sessions, without hearings and without discussion. Thus, this one amended article of the Rules of Procedure clearly outlined the goals, plans and perception of the Government of the Republic of Croatia, not only in relation to its own advisory body, but also to civil society as a whole"*²². Due to this violation of the legally prescribed standards of transparency and openness, Gong submitted a petition to the Information Commissioner requesting a review of the Council and the Government Office for Cooperation with NGOs of the Republic of Croatia, which performs professional and administrative tasks for the Council.

Last but not least, the Government Office for Cooperation with NGOs proposed, and the Government appointed, the director of a government-founded foundation (whose board is chaired by the Minister of Demography, Family, Youth and Social Policy) to be the civil-society representative (for foundations) to the council, thereby increasing the dominance of public authorities in the Council itself²³. Zaklada Zamah, Solidarna – human rights and solidarity foundation and Gong filed a lawsuit in early June 2020 against the decision of the Government of the Republic of Croatia appointing a representative of a government foundation as a member of the Council for Civil Society Development.

Furthermore, Croatia was required to nominate candidates to the European Economic and Social Committee (EESC), an advisory body of the European Union which includes representatives of social and economic groups, by 1 June 2020. However, government officials decided to ignore the participatory procedure for proposing and electing members established

²⁰ Napadima na civilno društvo Plenković se svrstava među nacionaliste i populiste, 3.10.2019, <https://faktograf.hr/2019/10/03/civilno-drustvo-plenkovic-nacionalizam-populizam/>

²¹ Zovko: Zatvaranje sjednica Savjeta za razvoj civilnog društva nedemokratski je i opasno, 27.5.2020, <https://www.hnd.hr/zovko-zatvaranje-sjednica-savjeta-za-razvoj-civilnog-drustva-nedemokratski-je-i-opasno>

²² Bez javnosti, bez procedure, 29.5.2020, <https://www.kulturpunkt.hr/content/bez-javnosti-bez-procedure>

²³ Savjet za razvoj civilnog društva uveo 'socijalno distanciranje' od novinara, 21.5.2020, <https://faktograf.hr/2020/05/21/savjet-za-razvoj-civilnog-drustva-uveo-socijalno-distanciranje-od-novinara/>

and implemented during the previous term of the EESC²⁴. The Ministry of Labour and the Pension System is responsible for coordinating the nomination and appointment process. Elections were initiated ignoring the requests of CSO representatives, without a transparent procedure and candidate presentation, so that members of the Council from eight different CSO activity areas boycotted the elections, pointing out that they must not deviate from the standard achieved previously, one for which Croatia had been recognised at the European level²⁵. However, after the first session, three candidates from the ranks of civil society were elected electronically, without discussion or candidate presentation, mostly by Government representatives. One of the people elected in the compromised process is also the new President of the Council for Civil Society Development, Danko Relić, who was supposed to organise the session and was responsible for the credibility of the election process.²⁶

At the end of May, the Initiative for a Strong Civil Society sent an open letter to the Government Office for Cooperation with NGOs and relevant ministries on the demise of the autonomy of the decision-making process of CSOs, the collapse of cooperation and the ruin of the Council for Civil Society Development, whose purpose – creating an enabling environment for the development of civil society – is now called into question. *“We believe that our colleagues in the Council will continue to act in good faith so that at least sometimes it will act as a corrective against the arbitrariness of the administration, while Croatia becomes or, in fact, remains, one of the growing number of European countries with a democratic deficit”*²⁷.

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However, the collapse of the system is only part of the process of diminishing civil society that began in 2016. Civil society organisations are being financially drained through EU funds and overwhelmed by administration and bureaucracy, which will be discussed in the second part of this analysis.

²⁴ Nema mjesta panici, 19.5.2020, <https://www.kulturpunkt.hr/content/nema-mjesta-panici>

²⁵ Predstavnici civilnog društva bez glasova civilnog društva, 2.6.2020, <https://www.gong.hr/hr/aktivni-gradani/civilno-drustvo/predstavnici-civilnog-drustva-bez-glasova-civilnog/>

²⁶ Dvostruki aksl Plenkovićeve vlade, 3.6.2020, <https://faktograf.hr/2020/06/03/dvostruki-aksl-plenkoviceve-vlade-kako-izabrali-predstavnike-civilnog-drustva-bez-civilnog-drustva/>

²⁷ Hrvatska (p)ostaje jedna od europskih država s demokratskim deficitom, 28.5.2020, <http://www.halter.org/vijesti/hrvatska-p-ostaje-jedna-od-europskih-drzavama-s-demokratskim-deficitom>

II CIVIL SOCIETY AND EU FUNDS – FROM OPPORTUNITY TO THREAT

The Republic of Croatia has developed a system of financing CSO programs and projects at the state and local levels²⁸. CSOs are also major beneficiaries of EU funds, for whose projects, following Croatia's accession to the European Union, funds are available through community programmes and from the structural and investment funds of the European Union.

In general, the management of EU fund programmes in Croatia is highly bureaucratic, while uncertainty, over-regulation and a high level of administrative requirements in the implementation of EU projects is a problem faced by the beneficiaries of EU funds from all sectors (local governments, colleges and student centres, entrepreneurs, etc.).

“Every time we sign a contract like this, we do so with a knot in our stomach, because what follows is a never-ending battle with bureaucracy, the struggle to get cost recognition, paperwork every three months compared to twice in three years in other European countries”, said Gordan Gladec, dean of the Faculty of Electrical Engineering and Computing at the EU contract awarding ceremony in January 2020, noting that the administrative burden is sometimes ten times greater than the research contribution²⁹.

With the aim of the better and more efficient absorption, coordination and implementation of EU projects and programmes at all levels, advocating for the reform of rules, procedures and requirements for applicants and beneficiaries is indicated as an area of cooperation of stakeholders from different sectors.

However, compared to the public or private sector, the civil sector is the most vulnerable. The public funding of CSOs is uncertain and most CSOs are not revenue-generating and have no financial reserves to help them survive difficult times.

Civil society organisations most often seek opportunities for funding from EU funds within the **European Social Fund**, the Efficient Human Resources Operational Programme 2014-2020.

Despite its name, this programme is anything but operational. Years of delays in announcing tenders, not announcing tenders at all, a lengthy process of announcing results, followed by contracting and budget clearing, highly bureaucratic administration and communication with numerous and even absurd rules and procedures is a normal part of the everyday life of CSOs.

²⁸ Financiranje programa i projekata udruga iz javnih izvora, <https://udruga.gov.hr/financiranje-programa-i-projekata-udruga-iz-javnih-izvora/2772>

²⁹ Svečanu dodjelu EU ugovora dekan FER-a iskoristio za kritiku administracije, 14.1.2020, <https://www.glasistre.hr/hrvatska/svecanu-dodjelu-eu-ugovora-dekan-fer-a-iskoristio-za-kritiku-administracije-615645>

The systematic non-publication of tenders and administrative violence perpetrated through EU projects has the strongest effect on CSOs, which can find it difficult to plan their activities and budgets, as they are increasingly focusing their activities on their own existence instead of their actions. Due to the high bureaucracy of the implementation procedures, they have to hire and train administrators or to stretch existing staff beyond all possibilities, with primary activities suffering most, together with the beneficiaries and the goals for which these CSOs were established in the first place. Staff in civil society organisations work continuously in uncertain conditions and CSOs are further weakened through staff turnover, precarious work and burn-out. The blade is successfully blunted as project managers fill in yet another form.

It is important to note that the managing body of this Programme is the Ministry of Labour and the Pension System.

IIa NOTICES AND PUBLICATION OF CALLS FOR TENDERS

The Ministry of Labour and the Pension System is required to publish an **Annual Plan for the Publication of the Calls for OPEHR Project Proposals** “with the aim of informing the public and enabling the timely preparation of project proposals of potential applicants”. The timely preparation of project proposals includes planning and writing projects, establishing partnerships and collecting documentation. It is an extremely time-consuming process. When publishing plans, the managing authority protects itself with the note that “the annual plan for publishing calls for proposals contains an indicative list of calls for proposals and deadlines known at the time of drafting the plan and is subject to amendments”.

But to what extent can CSOs really plan applications for ESF tenders, as well as their work over a period of one or more years, given the announced plans to publish public calls, but also the (lack of) realisation of those announcements?

In order to answer this question, during May 2020, **an analysis of the content of the six published annual plans for the publication of calls for project proposals under the Efficient Human Resources Operational Programme 2014-2020 was conducted for 2015 to 2020.**

The annual plan is presented through four priority axes: Employment, Social Inclusion, Education and Good Governance. Given that CSOs are usually not eligible for application under the first and third axes, the Social Inclusion and Good Governance axes were analysed, under which the most relevant tenders for CSOs are announced and published.

Tenders for which civil society organisations cannot apply, tenders for war-affected areas and tenders intended only for one specific group of CSOs (sports associations, veterans' associations) have been removed from the analysis of the Social Inclusion and Good Governance axes. The analysis included tenders relevant to civil society organisations active in

the areas of civil society development, good governance, social inclusion, human rights protection, culture, social entrepreneurship, media and similar.

An internet search of the notice of announced calls for tenders was conducted and the results are shown in the table below for comparison: *planned publication of calls for tenders / realised publication of calls for tenders*.

*on: 20 May 2020	2015	2016	2017	2018	2019	2020
Good governance – notice of announcement	4	9	5	5	9	5
Good governance – publication of calls for tenders	0	2	1	3	1	0
Social Inclusion – notice of announcement	5	9	8	6	6	5
Social Inclusion – publication of calls for tenders	1	1	3	1	2	1
Total notices of announcements:	9	18	13	11	15	10
Total publications of calls for tenders:	1	3	4	4	3	1
% of published calls for tenders in relation to notices of announcement	11.1 %	16.7 %	30.8 %	36.4 %	20 %	10 %

YEARS GO BY, THE TROUBLES REMAIN

The following is a more detailed yearly analysis. The number in parentheses refers to the total number of tenders in the axis.

2015

– *The Ministry of Labour and the Pension System published the first indicative annual tender plan for the award of grants from the European Social Fund (ESF) for 2015³⁰ in August 2015.*

Good Governance (4): **out of the 4 announced relevant calls for tenders, not one was published.**

³⁰ <https://udruga.gov.hr/vijesti/objavljen-indikativni-godisnji-plan-objave-esf-natjecaja-za-2015-godinu/3005>

Social Inclusion (14): **out of the 5 announced relevant calls for tenders, only 1 was published** (“Backpack Full of Culture for Youth”).

Other tenders have been postponed for the following year/years.

2016

The Ministry of Labour and the Pension System published an indicative annual tender plan for the award of grants from the European Social Fund (ESF) for 2016³¹ in early April 2016.

Good Governance (61): **out of the 9 announced relevant calls for tenders, 2 were published** (announced for 2015 – “Support for volunteering organisers for the improvement of volunteer management and the implementation of volunteering programmes” and “Support for the Development of Partnerships of Civil Society Organisations and Higher Education Institutions for the Implementation of Service-Learning Programmes”).

Other tenders are carried over into the following year, some are announced throughout the year and some disappear.

Social Inclusion (20): **out of the 9 announced relevant calls for tenders, only 1 was published** (“Art and Culture for Young People (PHASE I)”).

Other calls for tenders are announced and published in the coming years, except for two (“Social Inclusion of Young People Phase I”, which is no longer announced, and “Social Entrepreneurship – Phase 1”, which was not announced the following year, was again announced in 2018, but disappeared again in 2019).

2017

The indicative annual tender plan for the European Social Fund (ESF) grant for 2017³² was published in early May 2017.

Good Governance (6): **out of the 5 announced relevant calls for tenders, only 1 was published.** “Culture in the Centre – Support for the Development of Public-Civil Partnership in Culture Phase I”)

Social Inclusion (17): **out of the 8 announced relevant calls for tenders, 3 were published** (“Art and Culture 54+ – Phase I”, Support for Youth-oriented Programmes – Phase I” and “Support for Social Inclusion and Employment of Marginalised Groups”).

Other tenders have been postponed for the following year.

³¹ <https://udruga.gov.hr/vijesti/objavljen-indikativni-godisnji-plan-objave-natjecaja-za-dodjelu-sredstava-iz-europskog-socijalnog-fonda-za-2016/3471>

³² Annual publication plans for 2017, 2018, 2019 and 2020 can be found at: <http://www.esf.hr/godisnji-plan-objave-operacijaprojekata-esf/>

2018

The indicative annual tender plan for the award of grants from the European Social Fund (ESF) for 2018 was published in mid-February 2018.

Civil Society (Good Governance) (6): **out of the 5 announced relevant calls for tenders, 3 were published** (two after the announcement in both 2016 and 2017: “Strengthening the Capacity of Civil Society Organisations to Support the Effective Resocialisation and Reintegration of Offenders into Society” and “Spaces of Participation – Development of Public Space Revitalisation Programmes through Partnership between CSOs and Local Communities”; and the call “Cooperation Between Civil Society Organisations and Local Authorities for the Prevention of Corruption and Conflict of Interest in the Implementation of Public Policies”).

The others were transferred to the following year.

Social Inclusion (16): **out of the 6 announced relevant calls for tenders, only 1 was published** (“Health Promotion and Disease Prevention – Phase 1”, having been announced since 2015”).

Three tenders were postponed until the following year, and two disappeared (“Social Entrepreneurship” and “Inclusion of Marginalised Groups in the Community through Cultural and Artistic Activities”).

2019

The indicative annual tender plan for the award of grants from the European Social Fund (ESF) for 2019 was published at the end of March 2019.

Social Inclusion (9): **out of the 9 announced relevant calls for tenders, only 1 was published** (“Active Aging”).

Three public calls have been carried over into the plan for the following year, two to the reserve list for the following year, while two disappeared.

Social Inclusion (10): **out of the 6 announced relevant calls for tenders, 2 were published** (“Strengthening the Business of Social Entrepreneurs – Phase I.” and “Community Media - Supporting Social Inclusion through the Media – Phase I”)

The other four calls were carried over into 2020, one of which ended up on the reserve list (“Fight against Discrimination – a Prerequisite for the Social Inclusion of the Most Vulnerable Groups – Phase 1”).

2020

The indicative annual tender plan for the award of grants from the European Social Fund (ESF) for 2020 was published at the end of February 2020.

Good Governance (5): **out of the 5 announced relevant calls for tenders, not one was published**³³.

Social Inclusion (9): **out of the 5 announced relevant calls for tenders, only 1 was published** ("Make a Wish – Phase 2" related to the education, training and employment of hard-to-employ women for the purpose of supporting the elderly and the disadvantaged).

For the first time, a reserve list was introduced.

WAITING FOR GODOT

Annual tender plans published mid-year, detailing plans that will largely not be implemented do not help civil society organisations plan their work, resources and capacities. On the contrary, they present CSOs with an inaccurate picture, exhaust and starve them through waiting.

The reasons for the large discrepancy between the announcements and the publication of public calls can be both technical and political. Technical due to the lack of capacity of the bodies in charge of program management, planning, coordination and implementation of public calls and approved projects (something that is not tolerated for applicants). But, can a lack of capacity be a justification for all six years of the Programme?

Civil society organisations dealing with human rights, the rights of marginalised groups and people with disabilities, transparency, corruption, civic education, etc. are an ideological and advocacy thorn in the side of the current government. Making fewer tenders and funds made available to them weakens their capacity for public action. However, the purpose of the tenders in the Good Governance axis was just the opposite – to strengthen their capacities.

Insight into the topics of tenders that are (not) published indicates that some areas of activity of civil society organisations are thematically undesirable:

- The call "Strengthening the Capacity of Civil Society Organisations to Implement **Civic Education** Programmes" is the most undesirable public call in the Programme. It was announced every year from 2015 to 2019, and in 2020 it ended up on the reserve list without a publication date.
- The call "Support for Partner Innovative Projects of the Civil, Public and Business Sector for the Reuse of **Open Public Data** and the Development of ICT / Mobile Applications for Better Citizen Participation in Local Decision-making" announced for 2016, 2017, 2018 and 2019, disappeared from the 2020 plan.

³³ Date of last access to online resources: 21.5.2020

- Over the years, the announcements for the tenders “Development of **Socio-cultural Centres**“, “**Social Entrepreneurship**” and “Inclusion of **Marginalised Groups** in the Community Through Cultural and Artistic Activities” have disappeared.
- The tenders “Strengthening the Business of Social Entrepreneurs – Phase I”, “Community Media – Supporting Social Inclusion through the Media – Phase I” and “Health Promotion and Disease Prevention – Phase I” have been anticipated for four years, since 2015 when they were first announced, until 2019 when they were finally published.
- Two tenders announced in 2016 (“Cooperation of Civil Society Organisations and Local Authorities for the **Participatory Management of Budget Processes**” and “Support for CSO Programmes for Monitoring **Public Procurement** Procedures at the Local Level – Phase I”), which have not been published, disappeared the following year. In 2018, an obviously consolidated tender is announced and then published at the end of the year (“**Cooperation Between Civil Society Organisations and Local Authorities for the Prevention of Corruption and Conflicts of Interest in the Implementation of Public Policies**”³⁴). However, this tender caused dissatisfaction among the CSOs because the implementation of projects was conditioned by partnership with heads of the cities, municipalities or counties in which CSOs want to operate against corruption and warns that this is a problematic condition because it puts CSOs in a situation of a conflict of interest³⁵. *“Even the best ideas will not be able to pass if they are designed by CSOs that gather whistleblowers or point out the risks of corruption and moves of local “fat cats” because city, municipality and county leaders are given the opportunity to choose partner CSOs and associations that will not question the causes of local political corruption”*³⁶, Gong said at the time. This tender is also infamous for a long list of acceptable and mandatory activities for implementation. At the beginning of June 2020, the results of the tender are still not known, even though 18 months have passed since its publication.
- The public calls that NGOs have been waiting for since 2019 are “Microprojects – Supporting the Activities of **Local CSOs** (Based on Operating in the Local Community) to Effectively Address the Needs of the Local Community”, as well as “Supporting **Local Civil Society Organisations** – Contributing to the Community through Knowledge”.
- In 2019, two calls were announced: “Popularisation of **Science**” and “**STEM** as a Driver of Modern Society”, which were not published, but in the 2020 plan, the former became “Popularisation of STEM”, while the latter disappeared.
- “Financial Literacy” did not fare well either, announced in 2019 but put on the reserve list in 2020.

³⁴ <https://strukturnifondovi.hr/en/natjecaji/suradnja-organizacija-civilnoga-drustva-i-lokalnih-vlasti-na-prevenciji-korupcije-i-sukoba-interesa-u-provedbi-javnih-politika/>

³⁵ Škandal v Zrinski Banu, 22.1.2019, <https://www.h-alter.org/vijesti/skandal-v-zrinski-banu>

³⁶ Kako ići u borbu protiv korupcije s Bandićem?, 28.2.2019, <https://www.gong.hr/hr/dobra-vladavina/antikorupcijska-politika/kako-ici-u-borbu-protiv-korupcije-s-milanom-bandic/>

- Although announced for 2019, neither “Arts and Culture for Children and Young People”, nor “Support for Youth-Oriented Programs” and “Through Reading to an Inclusive Society” have been published.

CONCLUSION: OPERATION *INOPERABILITY* IS A SUCCESS, BUT THE PATIENT’S VITAL SIGNS ARE WANING

A comparison of published and unpublished tenders indicates that the *Efficient Human Resources Operational Programme* for CSOs is not overly operational as CSO capacities and human resources have been subjected to years of deception, waiting, exhaustion and starvation, and then administrative violence in the case of project implementation (discussed later in the analysis).

Neither of the two priority axes (Good Governance and Social Inclusion) proved to actually be a priority as a number of tenders were not published. For example, **under the Good Governance priority axis, no tenders on corruption, conflicts of interest and transparency (the very essence of good governance) have been published in the past 6 years**, except for a tender at the end of 2018 requiring the mandatory partnership of CSOs with local heads of administration in anti-corruption and conflict of interest prevention projects.

IIb PROJECT CONTRACTING AND IMPLEMENTATION

Information on the experiences of civil society organisations with contracting and implementing projects from the European Social Fund was collected from several sources: from the Experiences of European Social Fund Beneficiaries study conducted at the end of 2018 by Mario Bajkuša from the Forum for Freedom of Education. Mr. Bajkuša is also a member of the Monitoring Committee of the Efficient Human Resources OP and presented the research at one of the Committee meetings. The data used also includes public announcements, the internal minutes of meetings and correspondence of the initiative *For a Strong Civil Society and Survivor2020* (January to June 2020), which brings together 30 networks and civil society organisations; from thematic interviews with several representatives of civil society organisations / beneficiaries of EU funds during May 2020 and from publications and comments of civil society organisations in the closed Facebook group of civil society associations (from April to June 2020).

Bajkuša collected the experiences of beneficiaries with a questionnaire completed by 109 beneficiaries, of which 92 were analysed. Slightly more than a third of the questionnaires were completed by beneficiaries from civil society organisations.

The responses are categorised into four main dimensions of which two relate to the experiences of beneficiaries. **“More than 70 % of the coded statements referred to the negative dimension, i.e. the negative experience of ESF beneficiaries, while 28 % referred to positive experiences.”** Positive experiences are mostly related to relationships with people with whom beneficiaries are in direct contact during project implementation and the relationship with project managers in individual bodies.

“In the case of **negative** experiences, beneficiaries mostly point out various aspects of the **poor quality management of the entire process**, where the problems relating to time management, user un-friendly and limited e-platforms for reporting stand out the most. **Excessive administration and documentation** is the second most common negative experience, and it covers overly detailed and excessive administration that very often strays over into **project micro-management, inflexibility, problems with microdata collection**, etc. Among other negative experiences, beneficiaries pointed out the problems with human resources in the bodies in charge of implementing the ESF and unclear rules and procedures, resulting in the beneficiaries’ impression of arbitrary decision-making. Finally, beneficiaries pointed out several aspects of attitude towards them, such as insufficient information, poor attitude and communication, mistrust, etc.”

These findings were confirmed through information obtained from minutes, publications and interviews with CSOs and associations.

FINDING LOST TIME

We found that some tenders have been pending for years, but even after the call for tenders is published, the **processes** of project evaluation and approval, followed by project implementation are **complicated and slow. Everything takes too long. Tenders are closed and calls are suspended unpredictably.**

CSOs that have experience with calls for tenders on the principle of “first come, first served” consider this problematic because the chances are high that the time spent on preparing a quality project will be in vain. Although the following example is not related to tenders within the ESF, but to the European Regional Development Fund, it illustrates the issue of the “first come, first served” principle that entrepreneurs and CSOs have been protesting for years. One of them shared their experience:

“We sent the application yesterday at 11:00:56.07, or in the 56th second after publication, which seemed pretty good. We quickly received a notice that the submission of our project for the call in question was unsuccessful because the call had been suspended – the amount allocated had already been spent. Thirty-five seconds after the call was published, about 200 % of the funds foreseen in that financial envelope had been spent.”

On the other hand, standing calls do not achieve the purpose for which they were initially introduced, which was rapid evaluation and feedback to unsuccessful applicants so that they can apply again, until funds are exhausted, to give everyone an equal opportunity to apply. But it turns out that projects are delayed for long periods in the administrative assessment, perhaps giving some applicants a chance to revise and re-apply with their project, while others cannot apply because the Call is already suspended or has been suspended again. At the same time, the time the application is sent significantly affects whether or not the project will be funded, and no time is foreseen to prepare a high-quality application. In practice, most applicants wait for the call to be published in order to find out the conditions and rules for that tender and to begin preparing a project proposal, sending questions and waiting for answers from the contracting authority. On the other hand, some applicants, for whom the instructions are clear and who were prepared for the specific conditions of the call, are able to send in their proposals immediately after the call for tenders is published. There is room for doubt, as it is unclear why a permanent call is insisted upon, instead of a call that is open for 60 days with a rationally estimated amount for the tender.

An application submitted in response to a permanent call should be resolved within 120 days from the day of project application, but in practice the period from project application to the publication of results usually lasts over 18 months.

Projects in the Spaces of Participation tender were contracted on 29 May 2020, for the Call published on 4 December 2018, with a series of suspensions, and for which the first applications were received in December 2018 and January 2019.

One of the CSO representatives surveyed pointed out: *“We submitted the resocialisation proposal on 15 June, they called us urgently for budget clearing on 27 August, making us return early from annual leave, and then everything was just stuck in limbo for a year”*.

The Thematic Networks for Socio-Economic Development and the Promotion of Social Dialogue in the Context of Improving Working Conditions public call was published on 4 May 2018, but even though more than two years have passed, the results of the tender have still not been published.

And while CSOs are waiting for results and contracts, circumstance change – prices go up, salaries change, target groups, needs and circumstances morph, so the benefit of the project is questionable. A project that was planned and written two years ago may no longer be applicable, and despite this must be implemented as written two years later.

CSOs find it unacceptable that when **publishing the results of the tender, there are no points on the published list**³⁷, and no reserve list is published, so those who are on hold have no access to that information. The procedure for announcing the results of tenders is neither transparent nor does it favour strengthening CSOs. This was pointed out by one of the participants from a CSO with experience in EU tenders:

“It is important for us to know how many points we had in order to see how good our application was and how we compare with others. When you're on the reserve list, you have no idea if you still have a chance. There's an ongoing tender, we're on the reserve list. Nobody knows who's on the reserve list. The notice said that we did not link the project well with the strategic documents, when we listed seven of them in the limited space available. We have no idea what we got wrong, the answers we get are generic and general, we don't know what we missed and how to do it better. Why can't everyone function like the Agency for Mobility and EU Programmes or the Government Office for Cooperation with NGOs? They publish lists, they are friendly, so there are examples of good practice...”

One example is the tender “Expansion of the Network of Social Services in the Community – Phase 1.” In December, CSOs received a notification that project proposals had been evaluated, which indicated their points and information about the reserve list, indicating the duration of the list of 180 days (until 3 June 2020). However, the list of projects along with points was not published. On 27 May 2020, the Ministry of Demographics, Family, Youth and Social Policy, as a Level 1 Intermediary Body, announced³⁸ an increase in the available funds under the same tender for HRK 42,000,000.00 (about EUR 5.75 million), whereby the total financial allocation for the tender now amounts to HRK 152,150,000.00 (about EUR 20.8

³⁷ Example of the publication of funded projects in the tender “Expansion of the Network of Social Services in the Community – Phase 1”, see funding decisions: <https://strukturnifondovi.hr/en/natjecaji/sirenje-mreze-socijalnih-usluga-u-zajednici-faza-1/>

³⁸ Notice – Increase in the available financial resources within the Call “Expansion of the Network of Social Services in the Community – Phase 1”: <https://strukturnifondovi.hr/en/natjecaji/sirenje-mreze-socijalnih-usluga-u-zajednici-faza-1/>

million), which is 38 % more than planned in the call for tenders in January 2018. The notice states that additional financial resources will be used to finance project proposals from the reserve list with the same number of points as the last ranked project proposal in accordance with the Quality Assessment Report. This creates a lot of room for doubt because it is not known which organisations are on the reserve list and with what their number of points is.

The **process of budget clearing** before contracting often takes a long time and is invasive in relation to the evaluated project proposal, with implementing bodies sometimes substantially intervening in the projects. CSOs cite the example of the Strengthening the Capacity of Civil Society Organisations to Support the Effective Resocialisation and Reintegration of Offenders into Society tender when the bodies knew that HRK 13 million (EUR 1.78 million) would remain, but still made efforts to cut the budget for CSOs.

During implementation, **deadlines for beneficiaries** to submit documentation and clarifications are short; on the other hand, returning comments on the reports and evaluating them, drafting addenda to the contract, approving reports, approving allocations, the disbursement of funds, etc. by the authorities is long and everyone has to wait (sometimes up to 5-7 months). It is necessary to point out the problem of delays in approving reports or the Application for Reimbursement, causing delayed payments, thus putting CSOs at a disadvantage because they do not have the means to ensure functioning between the two reports. In the meantime, of course, they are obliged to carry out (and pay for) project activities, and an interim financing fund has never been established (under the pretext that liquidity will be ensured by the quick approvals of reports).

CSOs are forced to take out loans due to delays by government implementing bodies that employ over 1,200 people³⁹. Delays in the disbursement of funds and illiquidity, combined with delays in the publication of calls for tenders, means that CSOs can hardly define operational and financial plans for the following year, do not have any parameters to assess the possibilities and scope of their work in the future, and this, of course, also affects the retention of existing employees, who are often highly specialised in the areas in which they work.

PRACTICAL EXAMPLE: THANK YOU FOR YOUR FEEDBACK

CSOs experience with the Cooperation Between Civil Society Organisations and Local Authorities for the Prevention of Corruption and Conflicts of Interest in the Implementation of Public Policies tender: “Despite the workshop and questions, the documentation has not been changed. Unreasonably long deadline for answers – for questions asked on 22 January 2019, the answers were published the next year, on 2 January 2020. Unreasonable indicators

³⁹A thematic session on the situation and proposals for improving the implementation of projects financed from European funds was held in Parliament, 12.12.2019, <https://razvoj.gov.hr/vijesti/u-saboru-odrzana-tematska-sjednica-o-stanju-i-prijedlozima-za-poboljsanje-provedbe-projekata-financiranih-iz-europskih-fondova/4153>

for which the purpose is not clear, e.g. in corruption, in elements 6, 7 and 8, applicants are expected to produce a minimum of 8 shadow reports for each element listed, a total of 24 reports, which is one report per month if the project lasts 24 months, or two reports per month if the project lasts 12 months. When asked what the purpose of such frequent reporting is and who will read the minimum of 576 reports, the answer was "Thank you for your feedback." (from the minutes of the Survivor2020 Initiative meeting)

Project **administration**, on the other hand, is **overly detailed and excessive, to the extent that beneficiaries call it irrational, inflexible, complicated and inefficient**. The question arises as to the meaning of an excessively detailed budget for costs that are impossible to plan exactly in advance or to allocate human resources by elements, when this results in countless changes during project implementation and consequently additional administration. What is the use of filling in timesheets when it is what was realised that should be important, not how much time was spent? In the end, is it really important for the project, priorities and programmes if someone miscalculated the percentage of work time, or if the project affected social change and was well-managed? Luka Bogdan, Deputy Director of the National Foundation for Civil Society Development, at the session of the Council for Civil Society Development in the summer of 2019, stated that the Foundation's employees spend 30% of their working time going over timesheets! What is the ratio of the benefits of time and resources invested in ongoing controls of project administration at all levels? The main consequence of this approach is fear and insecurity at all levels, including the implementing bodies themselves.

When implementing projects, due to external influences it sometimes happens that activities must be carried out in a different way, but the implementing bodies do not understand the changes and deviations from the planned, which further increases the administrative burden.

Instead of caring about the best possible project implementation, better meeting the needs of beneficiaries and useful social engagement, CSOs have spent and still spend countless hours collecting microdata and documentation to prove the indicators, calculating percentages by elements and keeping records, arranging tables for the Application for Reimbursement, which takes much more time than planned for in the budget and working hours (and if they allocate more, they will be told that this is unrealistic during budget clearing processes). One CSO complained that they can no longer count on volunteers, who have been bombarded with documentation as volunteering organisers.

PRACTICAL EXAMPLE: SAILING THE HIGH SEAS OF ADMINISTRATION

"In the end, for a project that aims to reduce social exclusion, it turns out that it is more important that the volunteer hours were 110 and not, as we had put, 102 (this is one list, there were 100 lists to check) than the beneficiaries and their reduced social exclusion (no longer living in a house without water and electricity, obtaining an identification card and the ability to exercise some of their rights, finding a job...). If we look at the goal of every EU

tender, we cannot find a link between the sheer documentation and that goal, because in this case the storage of a lot of documentation for programme and financial implementation could be considered under the goals. Because it seems that is the main goal of all our projects. Only then do the actual beneficiaries and the real goal come into consideration. The question is why we are not trusted as implementers. Maybe it is because there is a general lack of trust in the system". (from study conducted by M. Bajkuša)

CSOs have different experiences with reporting platforms. The negative ones are related to a lack of interconnectedness, user-unfriendliness, functionality, etc., which makes the implementation of projects more complex, burdens human resources and adds additional time requirements. On the other hand, some feel that it has made it easier for them to submit reports by pointing out that they have become what Margaret Atwood calls "frogs in a slowly boiling pot". One participant points out:

"The Application for Reimbursement has finally become easy for me because of the platform, but only after a two-day workshop on using the platform. If I hadn't attended the workshop, I wouldn't have a clue, even though I consider myself an advanced IT user".

Beneficiaries are often **unfamiliar** with project management and implementation **rules and procedures** from start to finish as they often change for reasons that are unknown to beneficiaries. CSOs believe that there is a measure of arbitrariness and discretion in decision-making (for example, during budget clearing), which sometimes depends on the individual in the implementing body they are collaborating with on project implementation. There are also frequent changes in project implementation managers, each of whom bring with them a set of new rules. Dissatisfaction is expressed with the ambiguities regarding the rules in public procurement procedures and the role of the implementing body in procurement procedures. An interesting example is a CSO that had to conduct public procurement for amounts of HRK 100.00 (about EUR 15). For such a procurement, they estimate, the administrator spent two working days that realistically cost HRK 1,000.00 gross (about EUR 135), which is a loss for the project developer and the partner organisation (Bajkuša, 2018).

PRACTICAL EXAMPLE: DE MINIMIS MAXIMUS

In April 2018, the Strengthening the Capacity of Civil Society Organisations to Support the Effective Resocialisation and Reintegration of Offenders into Society call for tenders was published. This tender was announced in accordance with the rules on *de minimis* aid, which are applied when public funds are given to business enterprises or funds attributable to the state for the performance of economic activity. The application of the *de minimis* provision was certainly not expected because it was not included in other ESF tenders, so CSOs were taken by surprise during the budget clearing process. Namely, they applied for projects for grants for activities involving the resocialisation and reintegration of criminal offenders into

the community, which are activities that are considered part of the basic functions of the state, which are exercises of public authorities and not economic activities.

As neither the Financing Decision nor the Grant Agreement contain a clear explanation about why the funds awarded to the CSOs are classified as *de minimis* aid or on the basis of which a particular CSO or association is considered an enterprise, the association Roda – Parents in Action commissioned a legal opinion of the concept of an undertaking and *de minimis* aid, which concluded that the implementation of the submitted activities does not constitute an economic activity and to that effect, the association or CSO cannot be considered an enterprise and the funds allocated for these activities cannot be considered *de minimis* aid. However, Roda – Parents in Action decided not to appeal as it would probably lead to the annulment of the entire tender, which could jeopardise some CSOs, so they too signed the contract as it was presented.

However, in the case of Roda – Parents in Action, this meant that due to 3% of their total budget (or around HRK 55,000, or EUR 7500) being generated through self-financing activities in 2017 (not considered economic activities, a fact confirmed by the official audit of Roda's finances and the service contracts issued in November 2018 on their premises) resulted in as much as 94% of Roda's budget in this tender, over one million HRK (EUR 730,000), was marked as *de minimis*. However, the legal opinion prepared by attorney Tibaut states: "Improper treatment of the Association as an enterprise can have far-reaching consequences because there is a possibility that the Association will be considered an enterprise in future grants, especially because applicants are obliged to submit a Statement on the use of *de minimis* aid along with the project application. Since the Association has been awarded grants for a specific project and the implementation of specific activities, which mostly (incorrectly) represent *de minimis* aid, the Association will be obliged to submit a Statement on the use of *de minimis* aid when applying for other projects, which will show that the Association is a beneficiary of *de minimis* aid in the amount of HRK 757,482.17 (EUR 100,000). By submitting such a Statement, not only is it likely that the Association will continue to be (unjustifiably) considered an enterprise, but the Association's activities will be limited because the Association, as an enterprise, may be granted *de minimis* aid in an amount not exceeding EUR 200,000 over any period of three fiscal years under EU Regulation 1407/2013".

LACK OF TRANSPARENCY AT EVERY INTERPASS

The lack of transparency of the process also applies to the **committees** that **evaluate project proposals**. The identity of the members of the evaluation committees is not known, nor are the criteria for their appointment. Who assesses the capacities of civil society organisations, the merits and quality of their projects? Nobody knows. However, there are many stories and speculations among EU fund stakeholders, such as that the members of the evaluation

committees for project evaluation were members of the cabinet of a certain minister that is relevant to our analysis.

In the Transparency of Grants Awarded to CSOs in Tenders Report⁴⁰ dated April 2018, The Information Commissioner states that in order to ensure the full transparency of tender procedures, public authorities should publish the annual tender plan on their websites in a timely manner, and that tender documents and results should be published in an easily searchable manner and preferably in a separate section. Furthermore, in order to eliminate possible doubts about impartiality, after the completion of the tender procedure, or after the announcement of the results and the expiration of the objection period, it is necessary, given the circumstances of the tender, to assess the possibility of publishing the names of the evaluation committee members (e.g. a list of committee members or a list of evaluators without linking the evaluator to a specific project proposal). The Commissioner also stated that this information may become available to the public through requests for access to information, depending on the circumstances of the particular case, so it may as well be published in the first place.

BAN ON THE DEVELOPMENT OF CIVIL SOCIETY

The National Foundation for Civil Society Development also manages funds from the state budget and lottery funds, distributing them to CSOs and associations through various tenders (institutional grants, Centres of Knowledge grants, etc.), and has also increased the amount of project administration required over the last few years. For example, in the Centres of Knowledge Programme, requirements change every year and the number of forms and instructions is significantly increased compared to five years ago. The budget clearing process is one-sided, non-negotiable and decided by the Foundation Commission.

One association participating in the survey points out:

“Now it's a source of trauma for the whole office; the contract is constantly changing, you always have to think about whether you made a mistake and whether you'll be denied access to funds. Before, IPAs were a walk in the park; we worked with the Foundation, they were fast, not as demanding, we could talk to someone on the phone... today it's hard to get anyone on the phone and everything is much more complicated. Their business culture regarding access and communication has changed because they have grown immensely, so the question is whether the sheer number of employees and resources that they manage exceed their capacities. Additionally, Luka Bogan is creating policies that are not in the interest of civil society because he does not understand civil society”.

⁴⁰ Analytical Report on Monitoring the Implementation of the Act on the Right to Access Information, no. 3/2018: *Transparency of Grants Awarded to NGOs in Tenders*; <https://www.pristupinfo.hr/wp-content/uploads/2018/10/AI-3-2018-Transparentnost-dodjele-besporatnih-sredstava-neprofitnim-organizacijama-na-natjecajima-25.5-1.pdf>

Another participant believes that the problem is that the Foundation no longer provides training nor does it aid development, or that training is only aimed at recipients of institutional support.

The National Foundation used ESF technical assistance to further strengthen its capacities, from recruitment to the opening new branches⁴¹, with the intention of decentralising the system, all under the pretext of supporting ESF beneficiaries in implementing the ESF, though the purpose of these branches remains unclear to CSOs.

STEADY EYE, SHAKY HAND

Some of the advantages of working in civil society organisations rather than the public sector are intuitiveness, agility, adapting to change, recognising problems and needs in the community and quick response, volunteer work and activism. The described accumulation of administrative requirements negatively affects these advantages and requires civil society organisations to behave like bureaucracies, making them slow to react in the manner befitting state administration, instead of the state administration becoming more operational, open and flexible.

Due to funding uncertainty, CSOs spend a lot of their time on activities related to sustainability, and due to high administrative requirements, on filling in tables, reporting and preparing documentation.

CSOs cannot plan organisational development or staff salaries, so employment has become more and more precarious. Many are leaving and those who do remain face burn-out. The consequences are the exhaustion of organisations in terms of both staff and finances. They point out that the increase in frustration is too great and that working on otherwise inspiring projects has become a thankless and frustrating experience.

Many civil society organisations have been teetering on the edge of existence for a long time. In order to survive or keep qualified workers, they are forced to apply for tenders that are sometimes in accordance with the CSO's primary mission, or contribute to the mission but in a way that the CSO does not agree with, which ultimately affects motivation. At the same time, they sink deeper and deeper into a spiral of administration and bureaucracy and increasingly strive for the ability to be agile, fast, adaptable and to be what they were meant to be – an eye that watches over power and a hand that helps the needy.

⁴¹ Nacionalna zaklada otvara regionalne podružnice u Splitu, Rijeci i Osijeku, 3.5.2018, <https://zaklada.civilnodrustvo.hr/news/nacionalna-zaklada-otvara-regionalne-podruznice-u-splitu-rijeci-i-osijeku/2018-05-03>

Organisations have less and less time for the most important part of the work that is their *raison d'être* – to solve social problems and create positive social change, which affects public confidence in civil society organisations and ultimately negatively affects society and the quality of democracy.

AGREE(ment) TO DISAGREE(ment)?

The Partnership Agreement with Croatia⁴² on the use of the European Structural and Investment Funds (ESIF)⁴³ was adopted by the European Commission on 30 October 2014. The Agreement determines how the Republic of Croatia will approach the fulfilment of the common goals of the Europe 2020 strategy with the help of funds from the EU budget allocated to it through the multiannual financial framework for the 2014-2020 period. As we approach the end of this period, it would be useful to analyse the extent to which Croatia has complied with this Agreement.

A quick look at the interesting parts of the Agreement in this analysis shows that the Republic of Croatia has done the opposite in the field of civil society to what it stated it would do in the Agreement. Chapter 1.1.4.11 Public Governance and Administration states that Croatia has a burdensome regulatory framework and complex administrative procedures, which limit stronger economic development and competitiveness, burdens foreign investment and business and reduces citizens' trust in public administration and the efficiency of the judiciary. Chapter 2.5.3 A Summary of the Main Actions Taken or Envisaged to Reinforce Administrative Capacity states that the “**reduction in the administrative burden for beneficiaries** is considered one of the key prerequisites for the efficient management of ESI Funds”.

The Expected results section in 1.3.11 Thematic Objective 11: Enhancing the institutional capacity of public authorities and stakeholders and efficient public administration states: “Croatia is committed to supporting social dialogue and an **independent, diverse civil society** through a wide range of cooperation modalities supported by ESI Funds. ESF shall help to enhance social dialogue and develop innovative and effective partnerships between the public authorities and civil society (i.e. CSOs, community-based organisations, trade unions, business associations, NGOs, media, etc.) in order to enable them to make effective **contributions to policy-making and promote changes on a wide range of issues** (e.g. transparency, non-discrimination, social progress, green growth, etc.).

With the help of the ESF, it shall be ensured that civil society has the capacity to gain influence to participate in political dialogue and the formulation of development and social policies

⁴² Sporazum o partnerstvu između Republike Hrvatske i Europske komisije za korištenje EU strukturnih i investicijskih fondova za rast i radna mjesta u razdoblju 2014.-2020. (The Croatian translation of the English original “Partnership Agreement Republic of Croatia 2014HR16M8PA001 - 1.2” 1)

⁴³ European Regional Development Fund (ERDF), Cohesion Fund (CF), European Social Fund (ESF), European Agricultural Fund for Rural Development (EAFRD) and European Maritime and Fisheries Fund (EMFF)

(meaning technical capacities and access to relevant information in order to participate in social dialogue), especially in issues related to **combating poverty and inequality in favour of poor and excluded groups, as well as promoting sustainable development in an accountable, inclusive and transparent manner**".

PUBLIC FUNDS: ATMs FOR POLITICAL CORRUPTION

EU funds are used to rein in and control civil society, aided by a lack of competence and capacity to lead the tender cycle of individual implementing bodies.

"These four years can be described as a period of severe impenetrability into the decision-making system and, to a great extent, of isolation and ignorance that I could not even call a "red-headed stepchild" relationship - because the relationship is non-existent. I think that civil society has been largely pushed to the margins in recent times, not only because its current contribution is not valued, but through public rhetoric, the successes and all that has been done in terms of democratising society and strengthening human rights in the last twenty years or more has been eradicated. Instead, civil society organisations have been stigmatised and criminalised in recent years, even accused of corruption. Various public authorities that should be dealing with corruption in their own ranks are preparing increasingly rigid policies for control and imposing increasingly rigid forms of project administration implemented by civil society, even at the cost of returning the money to EU funds. They are abusing their authority in order to control the work of civil society", said Emina Bužinkić, President of the Government's Council for Civil Society Development, at the end of her term in a conversation with *Nacional*⁴⁴.

And while CSOs and other beneficiaries of EU funds are waiting for tenders and notifications, filling in tables, timesheets and Applications for Reimbursement, collecting evidence for indicators, calculating the percentage of work time, adding and subtracting decimals, calculating and deducting plastic bottle return fees on invoices, conducting public procurement for staples, photocopying and scanning documents, top government officials are using public funds and grants as ATMs for private gain and to strengthen clientelism and further gain control over the state: *"I made my friends happy. This morning I got a notification that Lapo, Zile and my nephew Ljubo got the thing. Lapo 180, Zile 200 and Ljubo 200. **She told me I was the only one to get three**"* – Josipa Rimac, State Secretary in the Ministry of Administration, boasting to her family members last year, in a recording by police investigators⁴⁵.

⁴⁴ An interview with Emina Bužinkić: "Prema civilnom društvu vlada politika šutnje, potiskivanja i zanemarivanja, 11.5.2010, <https://www.nacional.hr/buzinkic-prema-civilnom-drustvu-vlada-politika-sutnje-potiskivanja-i-zanemarivanja/>

⁴⁵ USKOK na tragu skrivene imovine Josipe Rimac, 1.6.2020; <https://www.jutarnji.hr/vijesti/crna-kronika/foto-uskok-na-tragu-skrivene-imovine-josipe-rimac-je-li-uhicena-hdz-ovka-stvarna-vlasnica-ove-vikendice-u-predgradu-vodica/10358752/>

In this case, it is about the allocation of grants to small and medium-sized enterprises in the programme of the Ministry of the Economy. Josipa Rimac is charged with asking the co-defendant Ana Mandac, Deputy Minister of Economy, to take all necessary steps so her relatives and friends from Knin can receive grants, to which Mandac agreed. She took their documentation from Rimac and included them on the list.

IIc RECOMMENDATIONS OR THE QUEST FOR POLITICAL WILL

The recommendations for a different approach to civil society and for the more efficient management of EU funds, for a new government that will be smarter and fairer than the current one, are very simple:

- The processes of programming, publishing and conducting tenders and evaluating project proposals should be made **as transparent as possible**. The implementation of this recommendation only requires (good) political will.
- The processes should be **simplified** to the minimum rules necessary for project processing and implementation to run legally and for funds to be spent justifiably and purposefully. Any rule, document and check above that only serves to unnecessarily accumulate administration, waste the time of civil servants and civil society organisations and to divert their focus. The implementation of this recommendation requires a robust information system and political (good)will, which can be strengthened by relevant EU Regulation⁴⁶: “(43) In the interests of ensuring proportionate control arrangements and of safeguarding the added value of financial instruments, intended final recipients should not be deterred by an excessive administrative burden”. Then what it takes is some goodwill and knowledge to carry out the process with the long-suffering beneficiaries of EU funds in a participatory manner. The implementation of this recommendation would free up a large number of work hours of employees in the implementing bodies, which would result in **accelerating the process of implementation of tenders and projects** and thus better **absorption of EU funds** and, equally important, more efficient use of the funds available.

end

⁴⁶REGULATION (EU) no. 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006; <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R1303&qid=1591910654941&from=HR>