

GLOBAL INFORMATION SOCIETY WATCH 2015

Sexual rights and the internet



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

Global Information Society Watch 2015

Sexual rights and the internet

Steering committee

Anriette Esterhuysen (APC)

Will Janssen (Hivos)

Coordinating committee

Monique Doppert (Hivos)

Valeria Betancourt (APC)

Mallory Knodel (APC)

Jac sm Kee (APC)

Nadine Moawad (APC)

Project coordinator

Roxana Bassi (APC)

Editor

Alan Finlay

Assistant editor, publication production

Lori Nordstrom (APC)

Proofreading

Valerie Dee

Stephanie Wildes

Graphic design

Monocromo

info@monocromo.com.uy

Phone: +598 2400 1685

Cover illustration

Matias Bervejillo

Financial support provided by

Humanist Institute for Cooperation with Developing Countries (Hivos)

Hivos

APC and Hivos would like to thank the Swedish International Development Cooperation Agency (Sida) for its support for Global Information Society Watch 2015.



Published by APC and Hivos
2015

Printed in USA

Creative Commons Attribution 3.0 Licence
(creativecommons.org/licenses/by-nc-nd/3.0/)
Some rights reserved.

ISBN 978-92-95102-41-5
APC-201510-CIPP-R-EN-P-232

CROATIA

CAMPAIGNS AND COUNTER-CAMPAIGNS: THE RISE OF CONSERVATISM ONLINE



Prostor rodne i medijska culture K-zona, Vox Feminae and One World Platform

Gabrijela Ivanov and Barbara Gregov

www.voxfeminae.net and www.oneworldplatform.net

Introduction

Over the past several years, sexual rights in Croatia have been attacked through a number of conservative campaigns and actions. These have primarily targeted the right to sexual equality, the right to sexual autonomy, sexual integrity and the safety of our bodies, and the right to free and responsible reproductive choice.

To become a member of the European Union (EU), Croatia was obligated to synchronise its legislation with the EU's *acquis communautaire* – or body of EU law – and implement the recommendations of the Council of Europe. This brought an impressive, positive change at the level of legislation which was and is now in line with EU standards and ahead of legislation in the Western Balkans. The annual survey conducted by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Europe ranks Croatia in fifth place (out of a total of 49 states covered by the survey) in 2015, achieving 71.05% of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) rights measured by the index.¹ The biggest problem is the fact that this implementation is neither controlled nor supervised.

The reality on the ground is of strong and well-organised conservative civic initiatives. Among them the most effective is “In the Name of Family”² (*U ime obitelji*) which succeeded in delaying the adoption of the law on same-sex marriage for more than two years, and managed to insert the definition of marriage as “lifelong union of one man and one woman” in the country’s constitution. On 1 December 2013, the country held a referendum promoted by In the Name of Family on the constitutional definition of

marriage, with 66% of the population voting in favour. The effect of this victory was that the promised Law on Life Partnership for Persons of the Same Sex was passed only in July 2014,³ and that at the constitutional level Croatia has prohibited the possibility of naming a same-sex union a marriage.

This report offers an overview of both progressive and conservative online campaigns in Croatia that impact on the sexual rights of its citizens. It suggests that a thorough review of the country’s education curriculum is necessary to achieve progressive sexual rights in the country.

Policy and political background

The legislation that provides the best protection to the rights of sexual and gender minorities include the constitution, which guarantees freedom of expression and the freedom of media, the laws on gender equality, same-sex unions, and the prevention of discrimination, as well as the criminal code and the media and electronic media laws.⁴

The work and operations of the Croatian media are regulated by the media law, the law on electronic media, the Croatian radio and television law, and legislation on the right to access information. The media and electronic media laws⁵ reiterate the

1 ILGA-Europe. (2015). *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People*. Belgium: ILGA-Europe. www.ilga-europe.org/sites/default/files/Attachments/01_full_annual_review_updated.pdf; see also the country ranking at www.ilga-europe.org/sites/default/files/Attachments/country_ranking.png

2 uimeobitelji.net

3 The parliament adopted the Law on Life Partnership for Persons of the Same Sex in July, granting same-sex couples similar rights to married different-sex couples. The law had been promised two years earlier, but had been slowed down by the constitutional referendum to outlaw same-sex marriage in December 2013 (where 66% of voters opted to constitutionally forbid marriage equality). After the referendum took place, the government announced it would accelerate work on the Life Partnership bill. Source: ILGA-Europe. (2015). Op. cit.

4 See the clause on freedom of expression at www.constitution.org/cons/croatia.htm; see also www.zakon.hr/z/444/Zakon-0-javnom-okupljanju. On the freedom of media see www.zakon.hr/z/38/Zakon-0-medijima; the media and electronic media laws www.zakon.hr/search.htm?searchString=elektronski+mediji; and the laws on gender equality www.zakon.hr/z/388/Zakon-0-ravnopravnosti-spolova, same-sex unions www.zakon.hr/z/732/Zakon-0-%C5%Beivotnom-partnerstvu-osoba-istog-spola, the prevention of discrimination www.zakon.hr/z/490/Zakon-0-suzbijanju-diskriminacije; and the criminal code www.zakon.hr/z/98/Kazneni-zakon

5 For the county’s media law see www.zakon.hr/z/38/Zakon-0-medijima; the law on electronic media www.zakon.hr/search.htm?searchString=elektronski+mediji; the radio and television law www.zakon.hr/z/392/Zakon-0-Hrvatskoj-radioteleviziji; and legislation on the right to access information www.zakon.hr/z/126/Zakon-0-pravu-na-pristup-informacijama

constitutional guarantee for freedom of expression and freedom of the media.

The Croatian law that is most discriminating against the rights of sexual and gender minorities is the Law on Family.⁶ Because of this, equality in marriage and equal rights for all couples remains the current preoccupation and aim of LGBTIQ activists, including the right to adopt children⁷ under the same conditions allowed for heterosexual couples. At this time, in the light of a traditional stereotyping of motherhood, it is much “easier” for lesbian couples in Croatia to become parents⁸ than for male gay couples, which is another thing that activists want to change.

The constitutional court has clearly stated that the addition of a provision in the constitution that defines marriage as a lifelong union of one woman and one man should not have any effect on the future development of a legal framework for same-sex or civil unions. This is in accordance with the constitutional principle that every person in Croatia is entitled to the right to have his or her personal and family life and human dignity respected and legally protected.

One of the biggest problems in the process of adopting European standards for the protection of human rights is the practical implementation of legislation. To improve the effectiveness of existing legislation, Croatia needs to implement radical and thorough reform of its judiciary and public administration.

The rise of conservatism online

Before the 12th Pride March of LGBTIQ people and families, the Zagreb Pride Association⁹ announced its call for the “Selection of a Homophobe and Homofriend for 2013” on its official website.

These rankings have been published by the Pride March since 2011, with the aim to point out which public personalities contributed, with their actions in the previous year, to the advancement of LGBTIQ rights, as well as the public actions of

persons who discriminated against the LGBTIQ community.

It is important to note that the final outcome and ranking are decided by the public with an online vote. The nominees, as a general rule, include political figures, representatives of the church and, to a lesser extent, journalists.

Rankings of this kind are not an exception in Croatia, and are often done by journalists. They are part of the standing tradition of exposing the actions of public personalities. However, many who are exposed through these lists find them contrary to the interests of the citizens. Two of the best known lists of this kind are the “Greatest Shits” that ran for many years in *Feral Tribune*¹⁰ magazine, and the “*Stup Srama*” (Pillar of Shame) list, published by the Libela.org web portal.

Željka Markić, the founder of the civic initiative In the Name of the Family – which initiated the referendum that introduced the definition of marriage as “lifelong union of a man and a woman” in the constitution – was named the 2013 Homophobe of the Year. The Homofriend of the Year award went to Mirela Holy, the president of the OraH political party (*Održivi razvoj Hrvatske* - Party for Sustainable Development of Croatia).¹¹

In 2013, Zagreb Pride nominated,¹² among others, Karolina Vidović Krišto, a journalist working for Croatian Radio and Television, for the Homophobe of the Year list, for the report “Paedophilia as Foundation of Sexual Education?” included in her “Image of Croatia” (*Slika Hrvatske*) programme which aired on 29 December 2012 on the broadcaster HRT.¹³

The programme was dedicated to the subject of introducing a health education curriculum in the educational system in Croatia. The programme included video footage for which HRT failed to secure the copyright, and which promoted conservative views on health education.

It was because of the airing of this video that the programming council at HRT moved to terminate the *Slika Hrvatske* programme.¹⁴ On nominating her for the Homophobe of the Year award, Zagreb Pride commented that the disputed programme was a “piece of propaganda and biased programme that

6 www.zakon.hr/z/88/Obiteljski-zakon

7 According to Wikipedia: “Full LGBT adoption in Croatia is not legal, but a single person regardless of sexual orientation is allowed to adopt. However, the Life Partnership Act recognizes an institution similar to step-child adoption called partner-guardianship.” https://en.wikipedia.org/wiki/Recognition_of_same-sex_unions_in_Croatia

8 According to Wikipedia: “Since the introduction of the Life Partnership Act in 2014, same-sex couples in Croatia have been equal to married couples in everything except adoption. However, the act provides same-sex couples with an institution similar to step-child adoption called partner-guardianship. Same-sex couples were first recognised in 2003 through a law on unregistered cohabitations.” Ibid.

9 www.zagreb-pride.net and www.zagreb-pride.net/izbori

10 feral.hr

11 <https://www.orah.hr>

12 La, B. (2013, 4 June). Homozbori 2013: Tko će biti homofob, a tko homofrend godine? *Index*. www.index.hr/black/clanak/homozbori-2013-tko-ce-bit-homofob-a-tko-homofrend-godine/681339.aspx

13 www.youtube.com/watch?v=TlaCwh2Xtco

14 CroL. (2015, 10 July). Karolina Vidović Krišto dobila spor protiv Zagreba: udar na slobodu govora u Hrvatskoj. *CroL*. www.crol.hr/index.php/vijesti/6831-karolina-vidovic-kristo-dobila-spor-protiv-zagreb-pridea-udar-na-slobodu-govora-u-hrvatskoj

has nothing to do with journalism and is rather misused for radical activism.¹⁵

The Zagreb Pride Association, established in 2002, is the leading Croatian association that works on LGBTIQ issues. Its aims include the achievement of a free, democratic and emancipated civil society based on the fundamental values of freedom, peace, non-violence, individuality, justice, gender equality, tolerance, freedom of speech and thought, the preservation, promotion and acceptance of diversity, and the right to self-identification and self-definition.¹⁶

The mission of Zagreb Pride is to publicly expose homophobia, biphobia and transphobia, while one of its main activities is to continuously react to any action aimed against LGBTIQ persons, their children and families, as well as the LGBTIQ community in general.

Krišto sued Zagreb Pride over their nomination of her for the Homophobe of the Year award. In July 2015 the District Court in Osijek upheld the decision of the Municipal Civil Court in Zagreb that Zagreb Pride should pay her more than 40,000 HRK (close to USD 6,000) for “injuries to her dignity, honour and reputation”.

Zagreb Pride and the CroL Association for Media Activism (publisher of the Crol.hr LGBT news portal)¹⁷ receive hate comments and threats on their respective social network profiles, and they have documented and reported these comments and threats to the authorities. Such incidents increase in frequency whenever some LGBT-related issue is more visible in the media. For example, this was the case with the adoption of the Law on Lifelong Partnership,¹⁸ the news of the first lesbian couple adopting a child, before and after the Pride Week during which the Pride March takes place, and especially during the constitutional referendum.¹⁹ Echoing the court action brought against Zagreb Pride, independent news websites run by women that often cover sexual rights (such as Libela.org, a website dealing with sex, gender and democracy; the already mentioned Crol.hr; muf.com.hr, a website focused on feminist pop culture; and the VoxFeminae.net website) were exposed over the past two years not only to hate speech, but to legal

action by prominent right-wing actors in the public sphere.

There have also been instances of violations against young girls on the internet. In June 2013, a person with the handle “Mr. Nobody” opened a Facebook page on which he posted photographs of girls from Eastern Croatia, calling them pejorative names and insulting them. The page was named “*Vikovačke kurve*” (Vinkovci Whores) and was active for several months before the successful intervention by the police to shut down the page. At the time, the case was a sensation in the media and the local community and caused serious trauma to the girls.

Soon after the Facebook page was shut down, in October of that year, the same person launched a new page on Facebook called “Vinkovci Whores II” and continued to publicly link to profiles of the girls. The criminal code treats such behaviour on the internet as an offence against honour and reputation. Private legal action by the targeted persons was necessary to prosecute. However, in October, some of the targeted girls were not of legal age,²⁰ in which case different rules apply and no private lawsuit was necessary to prosecute. Police could start the investigation and ultimately apprehend the perpetrator.

In this case, it was the action of a single individual, condemned by the media and the general public. A much greater and more serious challenge to the development of sexual rights takes place when certain groups, such as In the Name of Family, successfully mobilise one half of society (the traditionalists and the patriarchal), relying on the resources of the Catholic Church – the signatures for the referendum petition were collected, quite often, in churchyards and in the immediate vicinity of churches.

Reflecting the extent of the online mobilisation of conservative groups, a 40-day campaign of prayer against abortion held in front of hospitals in about a dozen Croatian cities was announced and advertised on the campaign’s website²¹ which was extremely well connected to social networks.

After a prolonged battle to introduce civic and sexual/health education curricula in Croatian schools, the “pro-life” forces decided to promote their “truth” through a website named “Health Education” (*Zdravstveni odgoj*).²² They did this anonymously, not releasing the name of the publisher. Zagreb Pride reacted to a series of discriminatory

15 arhiva.dalje.com/hr/hrvatska/zagreb-pride--udar-sudbene-vlastina-slobodu-govora-u-hrvatskoj/549747

16 www.zagreb-pride.net/o-nama

17 www.crol.hr/index.php/o-projektu

18 The law legalizing same-sex unions. www.zakon.hr/z/732/Zakon-o-%C5%BEivotnom-partnerstvu-osoba-istog-spola

19 Interview with Zagreb Pride public relations and programme coordinator Marko Jurčić and CroL editor-in-chief Iva Tomečić, 24 June 2015.

20 K.T. (2013, 15 October) Vinkovački zlostavljač se vratio, ovaj put krenuo na maloljetnice! RTL. www.vijesti.rtl.hr/novosti/935446/vinkovacki-zlostavljac-se-vratio-ovaj-put-krenuo-na-maloljetnice

21 www.4odanazazivot.com

22 www.zdravstveniodgoj.com

and disturbing articles published by the website with a complaint to the Council for Electronic Media over violations of the rules listed in the Law on Electronic Media. It also demanded the name of the website's publisher so that it could file misdemeanour charges against him or her.²³

The pro-choice campaign, led by the women's non-profit association CESI (Centre for Education, Counselling and Research)²⁴ and the RODA²⁵ (*Roditelji u akciji* – Parents in Action) association, responded by launching their own initiative called “Znaj znanje”²⁶ (Know the Knowledge) website. The key message of their campaign was that the only option is to educate the public that sexual rights are part of universal human rights.

The most visible online campaign that touched on sexual rights, at least in part (it included different forms of discrimination), was the “No to Hate Speech on the Internet”²⁷ national campaign, implemented from September 2013 through December 2014. The campaign was not developed in Croatia. Rather it was a campaign implemented all over Europe, and initiated by the Council of Europe. The implementation of the campaign was led by the Ministry of Social Policies and Youth and involved the non-governmental sector, the national television network and secondary schools. The Council of Europe commended the Croatian campaign as one of the best. However, for more thorough and long-term changes, the systematic education of new generations in schools is necessary.

Conclusions: Reforming education and raising awareness

It is evident that technology enables the mobilisation of both progressive values and conservative beliefs. The two sides are unequal, and the greatest threat to furthering the democratisation of society and the development of human and sexual rights is the indisputable power (social position, presence in mainstream media, money) enjoyed by members of the traditionalist faction.

That power was demonstrated by the fact that Krišto was represented in her litigation against Zagreb Pride by the office of one of the most prominent attorneys-at-law in Croatia, criminal law specialist

Zvonimir Hodak, who was engaged in some of the best-known political trials over the past several decades.

We should bear in mind that the deep democratic deficit of Croatian society reflects its education system – given the fact that various subjects of civic education, such as human rights, political literacy and participation, interculturality and communication with other cultures, are absent from the curriculum. Everyday experience suggests these issues are not part of the competence of students and the knowledge of citizens. As a result, the rights of national and other minorities in Croatia remain under threat.

The thorough reform of the curriculum for pre-school, elementary and secondary education that is currently under preparation is an opportunity to democratise the schools.²⁸ The GOOD²⁹ civil society initiative demands consensus on civic values from educational authorities, as well as a model and methodology for education.³⁰

A growing social mistrust is becoming dangerous in combination with a lack of confidence in political institutions. We see a strong polarisation of society that creates an unfavourable climate for democratic processes, in which opposition and ruling parties engage in constant altercations, to the effect that dialogue and a dedication to constructive solutions for social problems have been completely prevented.

There is the common view in Croatia that the laws are not as bad as the critical situation of the legislative system that fails to implement the laws properly. Citizens also do not know their rights or how to realise them. Ombudsman Lora Vidović, in her annual Report to the Croatian Parliament for 2014,³¹ warned that one of the greatest prob-

23 Zagreb Pride. (2013). #PinkMegaphone: From Anti-Discrimination Act to the Constitutional Ban of Marriage - Report of Zagreb Pride on the Human Rights of LGBTIQ Persons in Croatia 2010-2013. Zagreb: Zagreb Pride. www.zagreb-pride.net/new/wp-content/uploads/2015/02/report2014.pdf

24 cesi.hr

25 roda.hr

26 www.znajznanje.org

27 www.dislajkamrznju.hr/o_kampanji

28 The *Independent Balkan News Agency* reports that the reform of the education system is amongst the reforms that follow the entry into the EU: “This was confirmed to the media by the head of the national operational body for adoption of a strategy on education, science and technology, Neven Budak. According to this plan, junior classroom teaching should be extended from four years to five, and the mandatory school period would last nine years instead of the current eight years. Children would enroll in high school at the age of 15, and not, as is the case now, at 14 or 14-and-a-half. In secondary schools the reform means that the number of elective classes will increase and that should lead to the reorganisation of the network of vocational schools. The plan is to concentrate the schools in certain centres, [and to] make sure there are not many schools with the same curriculum.” See: Radic, N. (2013, 18 July). New reform of the education system in Croatia. *Independent Balkan News Agency*. www.balkaneu.com/reform-education-system-croatia-2/

29 goo.hr

30 GOOD Inicijativa. (2015, 22 May). Nije bitno koliko znanja će dijete steći, nego kako će ga steći. www.goo.hr/nije-bitno-koliko-znanja-ce-dijete-teci-nego-kako-ce-ga-teci

31 Pučki pravobranitelj. (2015). *Izvjescje pučke pravobraniteljice za 2014. godinu*. Zagreb: Pučki pravobranitelj. www.ombudsman.hr/index.php/hr/izvjescja/2014/finish/41-2014/562-izvjescje-pucke-pravobraniteljice-za-2014-godinu

lems citizens face is the judiciary, and called for immediate action by the Ministry of Justice, especially regarding instituting free legal assistance. She also mentioned, on several occasions, the lack of proper information available to citizens, something that she views as a major challenge for the effective work of institutions in the future.

Action steps

There are no special laws that regulate behaviour on the internet and the same rules apply to violations of law both online and offline. Because of this, legislation does not cover all the specific aspects of online violations and offences. Therefore, there is ample space to supplement and amend the legislation.

In this regard, we offer several recommendations for improving the current situation:

- Ensure the monitoring of online violations of sexual rights, as well as promotion of good practices in the area of sexual rights on the internet.
- Strengthen capacities to provide legal assistance to organisations working in the area of sexual rights, and allow them to file lawsuits. The grounds for this already exist, but few civil society organisations have sufficient resources at their disposal to engage in prolonged litigation.
- Ensure international support through the coordinated dissemination of news and reporting on attempts to restrict sexual rights in individual states in Croatia. This should primarily happen through independent media, but the mainstream media should also be encouraged to support this.
- Stimulate and promote the networking of existing online media dedicated to feminism, gender and sexual minorities, and the establishment of new, independent online media outlets.
- Support the development of policies, legislation and strategies for online protection that correspond to the actual needs of citizens using the internet.

Sexual rights and the internet

The theme for this edition of Global Information Society Watch (GISWatch) is sexual rights and the online world. The eight thematic reports introduce the theme from different perspectives, including the global policy landscape for sexual rights and the internet, the privatisation of spaces for free expression and engagement, the need to create a feminist internet, how to think about children and their vulnerabilities online, and consent and pornography online.

These thematic reports frame the 57 country reports that follow. The topics of the country reports are diverse, ranging from the challenges and possibilities that the internet offers lesbian, gay, bisexual, transgender and queer (LGBTQ) communities, to the active role of religious, cultural and patriarchal establishments in suppressing sexual rights, such as same-sex marriage and the right to legal abortion, to the rights of sex workers, violence against women online, and sex education in schools. Each country report includes a list of action steps for future advocacy.

The timing of this publication is critical: many across the globe are denied their sexual rights, some facing direct persecution for their sexuality (in several countries, homosexuality is a crime). While these reports seem to indicate that the internet does help in the expression and defence of sexual rights, they also show that in some contexts this potential is under threat – whether through the active use of the internet by conservative and reactionary groups, or through threats of harassment and violence.

The reports suggest that a radical revisiting of policy, legislation and practice is needed in many contexts to protect and promote the possibilities of the internet for ensuring that sexual rights are realised all over the world.

GLOBAL INFORMATION SOCIETY WATCH

2015 Report

www.GISWatch.org



APC

Hivos