GLOBAL INFORMATION
SOCIETY WATCH 2015

Sexual rights and the internet

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Financial support provided by
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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

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APC-201510-CIPP-R-EN-P-232
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 synchronize 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-organized conservative civic initiatives. Among them the most effective is “In the Name of Family” (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 favor. 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 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

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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-o-javnom-okupljanju. On the freedom of media see www.zakon.hr/z/38/Zakon-o-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-o-ravnopravnosti-spolova, same-sex unions www.zakon.hr/z/732/Zakon-o-%C5%A9ivotnom-partnerstvu-osoba-istog-spola, the prevention of discrimination www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije; and the criminal code www.zakon.hr/z/98/Kazneni-zakon

⁵ For the country’s media law see www.zakon.hr/z/38/Zakon-o-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-o-Hrvatskoj-radioleteviziji; and legislation on the right to access information www.zakon.hr/z/126/Zakon-o-pravu-na-pristup-informacijama
couples in Croatia to become parents than for male
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the same conditions allowed for heterosexual couples.
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ing of motherhood, it is much “easier” for lesbian
couples in Croatia to become parents 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 fu-
ture development of a legal framework for same-sex
or civil unions. This is in accordance with the con-
stitutional 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 pro-
cess of adopting European standards for the
protection of human rights is the practical implemen-
tation of legislation. To improve the effectiveness
of existing legislation, Croatia needs to implement rad-
cal and thorough reform of its judiciary and public
administration.

The rise of conservatism online
Before the 12th Pride March of LGBTIQ people and fam-
ilies, the Zagreb Pride Association 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 on-
line 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 ac-
tions 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 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 refer-
endum 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 De-
velopment of Croatia).

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

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. 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/288/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
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 Tribune
11 https://www.orah.hr
12 La, B. (2013, 4 June). Homoizbori 2013: Tko će biti homofob,
a tko homofrend godine? Index. www.index.hr/black/clanak/
homoizbori-2013-tko-ce-bit-homofob-a-tko-homofrend-
godine/683339.aspx
13 www.youtube.com/watch?v=TiACwhaXtc
14 CroL. (2015, 10 July). Karolina Vidović Kristo dobila spor protiv
crol.hr/index.php/vijesti/6831-karolina-vidovic-kristo-dobila-spor
protiv-zagreb-prida-udar-na-slobodu-govora-u-hrvatskoj
has nothing to do with journalism and is rather misused for radical activism.”\(^\text{15}\)

The Zagreb Pride Association, established in 2002, is the leading Croatian association that works on LGBTQI 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.\(^\text{16}\)

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 LGBTQI persons, their children and families, as well as the LGBTQI community in general.

Kršto 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)\(^\text{17}\) 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,\(^\text{18}\) the news of the first lesbian couple the case with the adoption of the Law on Lifelong Partnership,\(^\text{18}\) the news of the first lesbian couple the adoption of the Law on Lifelong Partnership,\(^\text{18}\) 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.\(^\text{19}\)

Echoing the court action brought against Zagreb Pride, independent new 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,\(^\text{20}\) 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 website\(^\text{21}\) 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).\(^\text{22}\) 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-vlasti-na-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.


\(^{21}\) www.4odanaazivot.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 preschool, 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-

24 cesi.hr
25 roda.hr
26 www.znajznanje.org
27 www.dislajkammrznju.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
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 (LBGTQ) 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.