**RESPONSE BY THE REPUBLIC OF CROATIA**

**Contributions to Report of the Special Rapporteur on freedom of religion or belief “Respecting, Protecting and Fulfilling the Right to Freedom of Thought**

1. **The right to freedom of thought: scope and content**

The Constitution of the Republic of Croatia (“Official Gazette, No. 56/90., 135/97., 08/98., 113/00., 124/00., 28/01., 41/01., 55/01., 76/10., 85/10. and 05/14.) in Article 38 proscribes that freedom of thought and expression shall be guaranteed. Freedom of expression shall particularly encompass freedom of the press and other media, freedom of speech and public opinion, and free establishment of all institutions of public communication. Censorship shall be forbidden. Journalists shall have the right to freedom of reporting and access to information. The right of access to information held by any public authority shall be guaranteed. Restrictions on the right of access to information must be proportionate to the nature of the need for such restriction in each individual case and necessary in a free and democratic society, as stipulated by law. The right of correction is guaranteed to anyone whose constitutionally and legally established rights have been violated by public communication.

According to Article 17 paragraph 3 of the Constitution of the Republic of Croatia, even in cases of clear and present danger to the existence of the state, no restrictions may be imposed upon the provisions of this Constitution stipulating the right to life, prohibition of torture, cruel or degrading treatment or punishment, and concerning the legal definitions of criminal offences and punishment, and the freedom of thought, conscience and religion.

Also, Constitution of the Republic of Croatia in Article 134 proscribes that international treaties which have been concluded and ratified in accordance with the Constitution, which have been published and which have entered into force shall be a component of the domestic legal order of the Republic of Croatia and shall have primacy over domestic law. Their provisions may be altered or repealed only under the conditions and in the manner specified therein or in accordance with the general rules of international law.

In terms of jurisprudence, it is to be noted that according to Article 115 paragraph 3 of the Constitution of the Republic of Croatia, courts shall administer justice according to the Constitution, law, international treaties and other valid sources of law.

1. **Freedom of thought in law and policy**

In the context of the right to freedom of thought in law and policy, we emphasize that the Criminal Code (Official Gazette, No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18 and 126/19 – hereinafter: Criminal Code) in Article 127 prescribes the criminal offense of Violation of freedom of opinion and expression as:

1. Whoever denies or limits the freedom of speech or public expression, the freedom of the press or other media of communication or the free establishment of mass media institutions shall be sentenced to imprisonment for a term of up to one year.
2. The sentence referred to in paragraph 1 of this Article shall be imposed on whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limit this freedom.
3. The sentence referred to in paragraph 1 of this Article shall be imposed on whoever unlawfully prevents the publication, sale or distribution of books, magazines, newspapers or other printed matter, or the production and broadcasting of radio and television programmes, news agency programmes or the release of other media content.

In context of protection of freedom of thought of individuals in potentially vulnerable situations (such as LGBT persons for example) Criminal Code according to Article 47 prescribes that the court shall take such a circumstance as an aggravating circumstance when determining sentence.