

## QUESTIONS

**1. Why did you come in Croatia this time? The first time you were in Zagreb was in 1993 during the difficult wartime. How much did Zagreb and Croatia change since then?**

I first came to Zagreb in December 2013 for a meeting of journalists, organized by the Council of Europe, to discuss the ethical challenges facing the media in the context of war.

I knew the region as with the NGO Article 19 in London, I started working on media freedom issues in former Yugoslavia in 1990 and had already travelled to Bosnia and Herzegovina, Montenegro, and Serbia, as well as holidaying on the Croatian coast.

At the airport there were military vehicles and planes, Zagreb was shrouded in fog. It was a literal and metaphorical fog, being also the “fog of war” – the challenge for journalists of finding the truth in a context of propaganda and misinformation.

Of course Zagreb and Croatia both have and haven't changed since then. On a hot sunny day, with relaxed crowds enjoying drinks on the terraces, it's hard to remember the chaos and fear of those dark winter days.

What's very important is that Croatia has developed the institutions and instruments of democratic governance. It has joined the European Union. I am here now because Croatia is a member of the global Steering Committee of the Open Government Partnership, on which I also sit.

I am also here now because my organisation, Access Info Europe, working with Gong, has identified a series of transparency challenges that still have to be resolved. These include the need for better transparency of decision making, more records of government contact with lobbyist, and the need for conflict of interest declarations.

It is also important that Croatia opens the future register of beneficial owners of companies. For example, the public needs to know who really owns the media.

**2. Then you worked on a book, the Croatian translation is titled: " Kalenje rata ". You were the main screenwriter of the story. What is the main plot of the book?**

The book, “Forging War” (published as Kovanje Rata in Croatia and Provojdna Rata in Serbia) was about the role the media played in disseminating misinformation during the break-up of Yugoslavia.

I conceived the book and raised funds for it; it was brilliantly written by Mark Thompson, an expert on media in this region.

It's very important to have a record of what actually happened. The book also teaches us how fragile our democracies are and how the media, if it is not free, can be turned into propaganda instruments of war. That is why a healthy, vibrant, diverse media space is essential and a priority to protect!

**3. Do you notice any difference between Zagreb then and Zagreb today? Can you please describe some specific details about then and now?**

When I first came to the region that was Yugoslavia, including Croatia, many young people wanted to leave and seek a better life elsewhere. That's still true because of the economic situation, especially for the young. I think that after Spain, where I live, and Greece, you have the highest youth unemployment rate.

At the same time, I have been working this week with some really dedicated young people who are working to make Croatia a better place to live in. The people at Gong who are working on projects like **Mozaic of Influence or Faktograf** [*please check names/spelling*] or the project ImamoPravoZnati (<https://imamopravoznati.org/>), which enables anyone to ask the government questions. These people are not fighting for corruption and against transparency just because they like complaining. They are doing it because they believe that it's possible to build a better future for themselves here in Croatia. That's something that everyone reading this article should know about and they should support those people.

Especially because, as we know, one of the biggest costs to the economy is corruption and waste through inefficiency. There is also another cost of corruption and lack of transparency which is that it reduces investor confidence. So making Croatia more transparent could have the dual effect of reducing costs, including through theft and wastage, and encouraging investment. That is the best way to secure the future for young people.

**4. The organization that you are representing is fighting for more open, accountable, and responsive governments. Can you please present your organization in few words?**

Access Info Europe works to defend the right of the public to have information about what is happening inside government, including national government and in the corridors of the European Union in Brussels.

**5. How successful is your organization in Spain? What kind of problems are you facing?**

Spain is a country whose official state secrets law still has the signature of the dictator General Franco on it – the law was adopted in 1968. Spain only adopted its access to information law in 2013, so 10 years after Croatia! We need to understand that any transition from authoritarian regimes, be it socialist or fascist, takes time.

Access Info Europe has been incredibly successful. In addition to getting the transparency law adopted, we are successfully getting information. For example, we recently got documents about lobbying around a law on solar and renewable energies – in fact, opening up lobbying

and being able to see which documents have been submitted by lobbyists to government bodies is a very important advance.

And this year for the very first time in Spain's democratic history we secured public access to the minutes of cabinet meetings, which contain the actual decisions taken – before only press releases and that increases accountability. That victory for transparency was thanks to the ruling of Spain's independent Transparency Council, which is the equivalent of Croatia's Information Commissioner.

Thanks to information we obtained, we identified that there were huge inefficiencies in the way Spain grants nationality to those wishing to become citizens, because the government was not crossing the data in multiple databases, and this led to even convicted criminals being granted nationality. Working with journalists, we exposed this, and as a result the Ministry of Justice is revising the system. That's a nice example of where transparency is not only about the fight against corruption, but it's also about contributing to government accountability.

## **6. Can you please compare the situation in Spain and the situation in Croatia?**

Spain is the a much larger country than Croatia and has a bigger and stronger economy. But I see lots of similarities – not only because they are both beautiful countries and top tourist destinations!

As I noted, both countries are still in some kind of transition towards democracy – even though both are successful members of the European Union.

The first challenge is that both have a political elite plagued by corruption scandals, after years of rampant corruption from the main political parties. In Spain, the prosecutors and judges are working hard on this: there are currently 83 politicians in jail – many of them pretty senior figures. There are around 1,300 cases ongoing, with some big new scandals resulting in 27 prosecutions in 2017 and a number of people arrested and put in pre-trial detention. The public can follow all of this on a special section of the Judicial Power website: [http://www.poderjudicial.es/portal/site/cgpj/menuitem.65d2c4456b6ddb628e635fc1dc432ea0/?vgnextoid=8ae2e5359a11d510VgnVCM1000006f48ac0aRCRD&vgnextfmt=default&vgnextlocale=es\\_ES](http://www.poderjudicial.es/portal/site/cgpj/menuitem.65d2c4456b6ddb628e635fc1dc432ea0/?vgnextoid=8ae2e5359a11d510VgnVCM1000006f48ac0aRCRD&vgnextfmt=default&vgnextlocale=es_ES)

When you have so many corruption scandals being reported in the media, it gives the public the impression that everyone is corrupt. In fact, it means that we are finally addressing the problem.

Another similarity with Croatia is that, while we have developed many instruments to fight corruption and to increase transparency about public life and to promote integrity, we still lack some basic instruments, such as a lobby transparency law, although this is currently being debated in parliament as well as there being proposals for the Madrid City level.

## **7. You came to Croatia at the moment of a new affair related to the Croatian Minister of Finance Zdravko Marić who is accused for conflict of interest. He is also accused for lying**

**that he was not aware how serious the situation in his former company Agrokor was, and he was in charge of investments. What do you think the responsibilities of Minister Marić are?**

It's important that all politicians, particularly senior figures, show that they are ready to be scrutinised and investigated. If there is, prima facie, evidence of some kind of wrongdoing then it's essential that there be a full, independent investigation.

Politicians tend to try to fight for their political life in the face of corruption scandals, but increasingly that is something that the public will not tolerate. We saw it in the French Presidential elections where the right of centre candidate François Fillon was caught up in a scandal because he paid his wife and daughters for fictitious jobs. The public did not tolerate that and punished him on election day.

There is also a question here of having the right tools and mechanisms in place to prevent such conflicts of interest arising. For example, in Croatia you still need conflict of interest declarations. Then if conflicts are found, you can make it an offence to have hidden or lied about it.

Croatia also needs proper rules on “revolving doors” to stop people going straight from business into political positions that might help those companies, or vice versa from the private company to politics. It's an essential law to prevent this kind of scandal. It's recommended that for certain key positions, there be a two or more year break between the public and private sector jobs, so that it's not possible to use information and influence for private gain.

**8. How do you assess the conduct of the Government in this particular case? In your opinion, do you think that Minister Marić should resign? How would a minister in Spain act in a similar situation?**

I am from the UK. We have also had our corruption scandals, including the famous MPs expenses scandal in 2009, where abuse of expenses claims led to four members of parliament and two members of the House of Lords being jailed, and many more being forced to resign – as well as paying back sums claimed illegally. That scandal has increased pressure from the public and since then similar scandals have resulted in rapid resignations.

Spanish politicians tend to be a bit like Croatian ones, and they don't like to admit that they are wrong and they don't like to resign. But that is changing. In Spain in April 2016 the Minister of Industry resigned because he was exposed by the Panama Papers. The Panama Papers resulted in resignations across Europe, and a political revolution in Iceland. I think it's clear that the public is increasingly intolerant of corrupt politicians. If a person does not resign, there may well be consequences for his or her party at the ballot box during the next elections.

**9. Which institutions did you visit in Croatia? How do you assess the situation in them? For whom are you writing this report? Where will be published?**

This first thing to say is that in a series of meetings with senior Croatian government officials this week, I was very impressed by the openness to talk about the challenges of bringing in legal and practical reforms towards openness. These were not just meetings for diplomatic niceties but serious working meetings where different perspectives were able to come together and have frank discussions about what Croatia has achieved so far in advancing transparency – and there have been some very significant achievements – as well as what still remains to be done.

I held the meetings along with Jelena Berkovic, Executive Director of Gong, and Sandra Pernar, who is the Croatian government contact point for the Open Government Partnership. We met with Deputy Minister and State Secretary level staff, plus other officials from the Ministries of Foreign and European Affairs, Ministry of Administration, Ministry of Finance and Ministry of Justice.

One of the main rule of being part of the 75-country Open Government Partnership, of which Croatia is a Steering Committee member, is that every two years an Action Plan has to be developed in consultation and collaboration with civil society. This has worked very well in the past, particularly as Croatia has the excellent institution of the Office for NGOs, which has helped ensure civil society participation in the past. I note that this office is currently without a head, so that should also be a priority, as it really is a model that is looked to by other countries in this region and much more widely, even globally.

The meetings this week gave us an opportunity to talk about how Croatia is doing in developing an action plan for the Open Government Partnership, something that has been a bit delayed due to the political instability of recent months, and the rift with civil society during 2016, which is now healing as all sides make an effort to work together towards a new action plan.

In terms of substance, it always helps to have actual evidence about what the needs are. Access Info Europe and Gong have carried out monitoring studies and we have found that although Croatia has one of the world's strongest access to information laws – coming in at in 7<sup>th</sup> place out of 115 countries (score 126/150 on the RTI Rating) – and although in general response rates to requests are high, when we evaluated transparency of decision making, we found that of seven (7) decision-making processes studied, there was a serious problem with record keeping: one third of the information requested was not held by the public authority. This information included in particular a lack of records of meetings held along with lack of minutes, something that seriously reduces transparency around how decisions are influenced and taken.

Another consequence of the lack of record-keeping is that there is no track of contact with lobbyists. In fact, it seems that for some but not all of the meetings that we held, during this week, was there a plan to have an official record of the meeting. This is something that anyone can test by requesting a copy from the relevant ministry (check out [imampravoznati.org](http://imampravoznati.org) to submit your request!). As for me, I will be writing an article

summarising the meetings for the OGP website; it will have a list of those with whom we met.

The conversations were very wide ranging, covering a lot of transparency and accountability issues, but I would say that there are three absolute priorities for Croatia.

The first is, as just noted above, to strengthen record keeping and to make sure that there is full traceability of how decisions are taken. This fits with discussions we had in with Deputy Minister Jagoda Boticki and her colleagues at the Ministry of Administration on how to ensure that documents exist and that they are then released in open, machine-readable formats rather than scanned PDFs that can't be word-searched.

Making sure that information is available free of charge is another challenge. The Ministry of Finance has done a lot of work putting the budget into a user-friendly format – I strongly encourage citizens to look at that on line and at the forthcoming visualisations so that you get a better picture of where money is spent. But some other data, such as geospatial data is still only for sale, and that needs attention.

Second is the need to have certain accountability and integrity mechanisms in place. These include a lobby regulation law. It also includes both collecting and making public declarations of assets and of conflicts of interest. Croatia is behind the curve in not having the conflict of interest declarations. And, as we discussed at the Ministry of Justice with State Secretary Kristijan Turkalj and his colleagues, these should be for all mid- and high-level public officials, as well as parliamentarians and for judges. I know that there is resistance from the Association of Judges, but this is really not an interference with judicial independence: indeed, a conflict of interest declaration is the best possible tool for guaranteeing judicial independence, and making it public is a sign that the judiciary is ready to demonstrate that it merits public trust.

Third, we talked in every meeting about the question of opening up the beneficial ownership register. This is something that is very important in order to ensure that both law enforcement and also watchdogs such as investigative journalists and anti-corruption organisations have access to the information necessary to track money laundering, tax evasion and organised crime. Many OGP governments are now opening up their beneficial ownership registers and Croatia should explore how to do this, as we discussed in depth at the Ministry of Finance and of Foreign and European Affairs.

Linked to these questions, we discussed in the meetings whether Croatia will sign up to the à la carte menu of declaration from the December 2016 OGP summit in Paris. Having an interim government prevented Croatia from doing so at the time, but as an Steering Committee member, it would show leadership to sign up to the commitments, such as on access to information, lobby transparency and ending abuse of anonymous companies.

In the Ministry of Foreign and European Affairs, Deputy Minister Amir Muharemi assured us that any delays in the action plan and the Paris Declaration are not matters of political will. It is to be hoped that very soon, and at least shortly after the summer holidays, we will see movement on this.

Last but not least, I had working lunches with the Commission on Anti-Corruption and the Information Commissioner. There were important meetings to discuss the practical aspects of transparency and integrity work.

For example, with the Anti-Corruption Commission we discussed how spending data is currently open but not searchable, something for the Ministry of Finance to work on. We also discussed the possibility of making lobby transparency and declarations of conflict of interest part of a package of related laws; something like that would be an important step forward.

With the Information Commissioner we discussed a range of the issues that her small office is working on. The work of the Information Commissioner had come up in other meetings, such as whether or not Croatia will sign and ratify the Council of Europe on Convention on Access to Official Documents, something many other countries in the region have done.

I note here that the Information Commissioner plays an incredibly important role in ensuring that the access to information law is respected. She has been doing a great job on this. Given that her mandate is up for renewal next year, it would be positive to see a commitment to continuity of the leadership that Anamarija Musa has shown in the post

**10. You claim that you do not have an open door for access to the European Commission? Why do you think that such informations should be available?**

In general, the European Union institutions are very transparent, certainly when compared with many countries in southern Europe.

What we have seen recently is a push back against transparency on some specific issues that are a bit sensitive. That includes information related to the decision not to publish the regular Anti-Corruption Report, as well as spending of the European Commissioners on travel and accommodation.

Access Info also went to court against the European Commission in December 2016 to make public the Commission's legal opinions on the EU-Turkey deal – the agreement from March 2016 about returning refugees from Greece to Turkey. It's a highly controversial deal and it's essential that the public knows whether the EU believed that this deal was in line with international human rights and humanitarian law before the deal was concluded with Turkey.

**11. You said that the General Secretariat refused 152 requests and did not answer on 51 appeals. Can you please specify few characteristics among them?**

The European Commissioners' travel expenses case is a very interesting one. Given how transparent the EU generally is on technical and financial data, we didn't think it would cause such a problem.

But there is a huge resistance here. And whenever there is resistance to be transparent, one suspects that something is wrong.

In this case, we were told that it was a lot of work – as much as 77 days -- to provide Access Info with the data on the travel and accommodation costs for the 28 Commissioners for the year 2016. Note that we didn't want original receipts, just the numbers.

We did establish that one person could ask for a smaller amount of data. So we provided the public with the opportunity to ask, and 120 people sent a total of 189 requests. At first the Commission started registering them, but when they realised it was a coordinated effort, they stop registering the requests which is totally illegal under EU law. I am personally particularly shocked by this because access to documents is a fundamental right at the EU level – just like access to information is in the Croatian Constitution as a right.

We have now complained to the European Ombudsman and the case is with her office, which has a similar function for transparency as the Croatian Information Commissioner. I am sure that they will do a full investigation.

**12. How did the European Commission justify the refusal to answer to your question about President Juncker's, Vice-President Timmerman's and three commissioners travel expenses? Which rules were violated?**

Here again, the Commission's behaviour is very odd. We had previously obtained a small amount of travel expenses data for five of the Commissioners for 2015. This was not particularly interesting, with the exception of one thing that shocked me: President Juncker spent €63,126 on an air taxi from Turkey back to Brussels after meetings in Turkey.

Many people were shocked by how expensive this is. We published the information. There was not a real scandal. Furthermore, the Commission explained that it had been an unusual situation as the Belgian air force had had security problems and not being able to collect President Juncker and his team. Personally I still find it a bit expensive as there are regular flights from Turkey, but that is something we can discuss now it's public.

What makes us suspicious is that we are told that we can't have any more information for five Commissioners. I really start to wonder then what there is to hide.

In terms of the law, refusing to process a request is a violation of the EU access to documents law. We will see what the European Ombudsman finds in this case as well.

**13. Your organization is insisting on transparency and availability of data, which should prevent corruption. How much do you think transparency contributes to the reduction of corruptive activities?**

Transparency is essential in the fight against corruption. But it's not sufficient. Because once you have the information to show that corruption happened, then you need all kinds of other mechanisms to prosecute people: you need laws and you need independent prosecutors and judges.

And to have information be made public, you need to collect it. So you need to have minutes of meetings. You need to have declarations of assets and of conflicts of interest. You need to



publish all the details of decisions and of contracts. Without that information we can't monitor for corruption. With it, we can significantly reduce the space in which corruption can occur.

**14. What is your view on lobbyists working in parliaments, including the European Parliament and the European Commission. Do you think that they too contribute to corruption.**

I believe that lobbying is a legitimate activity. Indeed, I myself am a lobbyist! I have been lobbying the Croatian government this week. Ok, I represent a civil society organisation with a human rights mandate. But still, when I say to an official "Access Info recommends that you make your decision-making processes more transparent and that you should have a law on lobbying!" that is also a kind of lobbying!

So, lobbying and corruption are two different things. Corruption is illegal payments and it's traffic of influence. Honest lobbying, where the business sector argues why some laws are positive or not, is healthy in a democracy.

Let's take another example: suppose the government is looking at the law on organic farming, and a group of organic cheese producers or organic wine growers from one region of Croatia come to Zagreb to meet with officials and to explain why the registration process needs to be simplified because it's a huge administrative burden for small-scale farmers. That's lobbying, but it's not bad and it could be beneficial for growth of organic farming.

What is essential, is that we know who the government is meeting with, and what arguments they are making. That permits civil society organisations and the media to ensure there is real public debate.

At the Brussels level, there is a register of lobbyists and we are able to find out a lot of information about who meets public officials. So things are getting better all the time in terms of transparency of lobbying at the EU level. A new and stronger regulation is being developed.

You have to be in the Brussels register to meet high level officials but that's not a problem as it's very easy to register. My organisation Access Info Europe is in the register!

If the only people who get to talk to ministers about the organic farming law were big agro businesses and companies producing pesticides, that would be a problem. So we urgently need transparency about who meets with officials and what they discuss. That means good minutes of meetings and publication of the documents submitted by lobby groups.

Another really important thing: we should never limit who has access because of their professional title of "lobbyist". After all, the pesticide companies can afford to pay a professional lobbyist, but the organic cheese and wine growers may have to take a day off their work in the fields to go to a meeting, but they are still legitimate representatives and should also be granted access to decision makers.

There is also no excuse for the Croatian government not to develop a good law. Access Info has developed a set of standards, the International Lobby Regulation Standards, which were

developed other large international organisations, have been endorsed by many groups, and are being used by governments and inter-governmental organisations as guidelines for future laws.

**15. One of the biggest promoters of the Open Government Partnership and the fight against corruption was Hillary Clinton but also the president of Brazil Dilma Rousseff? Dilma Rousseff was removed from her office because of corruption (breaking budgetary laws). Are this kind of cases absurd and discouraging for Open Government Partnership?**

The good news about Brazil is that people are being prosecuted and sentenced, as we saw with former President Lula da Silva this week.

But let's be clear what OGP is about. It's about working with people inside government who are trying to bring about reform. Who are trying to make government more open, more participatory, less corrupt, and overall to perform its democratic role better.

I met a lot of people this week in Zagreb – in and outside government – who are working hard, often very hard while others are at the beach, to improve the quality of democracy in Croatia. The OGP works to help those people.

And when there are problems, we are tough on countries. Azerbaijan has been suspended. Montenegro last week was declared “inactive” until it makes more develops a plan of action for reform, and not only develops one but does so with civil society.

Similarly, with the recent scandal in Mexico of spying on some civil society leaders, we responded with a fact-finding mission. In the meantime, civil society in Mexico has pulled out of negotiations with the government on OGP, and that has put pressure for an inquiry. The Mexican Information Commissioner is also investigating the violation of privacy.

There are also countries which have done very well. Italy has recently improved its access to information law – which is still not as strong as Croatia's – thanks to including this in its OGP plans. We see that in countries around the world.

OGP is also working at the city level. Cities such as Paris, Madrid and Buenos Aires are making great progress on openness and participation. I see a lot of future for developing democracy at the city and regional level, which is closer to the citizens, and not only staying at the national level.

**16. How much do you think is difficult to determine ownership in media sector. What do you think is necessary for the problem of ownership transparency to be solved?**

It is still very hard. Access Info Europe has developed a set of ten recommendations on Transparency of Media Ownership, which you can find on our website. Academic researchers are now evaluating the ownership of the media in many countries against those criteria.

What we do know is that various countries, including Finland and Austria, have made progress in opening up media ownership transparency and also transparency of publicly purchased

advertising. That has helped redistribute advertising significantly, as well as reducing the overall budget for such advertising, as happened in Vienna.

My recommendation for the Croatian government is to focus on full transparency of the Beneficial Ownership Register as that will solve the problem of lack of transparency of media ownership as well as of many companies that do business with the state.