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INTERNAL SUPERVISION OF THE ACTIVITIES OF AN ASSOCIATION¹

Summary: *The author, for the first time in our doctrine, analyses the institute of the internal supervision of the activities of an association as defined in the Law on Associations (Official Gazette No. 74/2014, 70/2017, 98/2019). The aim of the paper is to conduct a norm-referenced evaluation of the institute available to the members of the association as subjects most familiar with the activities of the association. The assumptions of the internal supervision are considered as well as questions related to the implementation of the appropriate procedure by means of different interpretation methods. Particular emphasis is placed on those parts of the institute, which must be regulated in accordance with the association's statute. The analysis also includes the presentation and the actual potential impact of the judgment of the European Court of Human Rights in the case *Lovrić v. Croatia* on the future development of case law in the Republic of Croatia. It is expected that judicial review of the activities of the associations will continue to expand. In conclusion, the results of the analysis are summarised.*

Keywords: *Association, internal supervision, Law on Associations, European Court of Human Rights*

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¹ Bearing in mind the terminology of the Law on Associations, Art. 42 the author considers the syntagmata "supervision of association", i.e. "supervision of the activities of an association" and "internal supervision" synonyms. The same is true with regard to the meaning of the terms "the activities of an association" and "the operation of an association", except where the latter refers to the supervision of the activities of the association in accordance with Art. 45 of the Law on Associations.

1. INTRODUCTION

The activities i.e. operation of an association is controlled in different ways by a number of different bodies. Thus, in addition to the supervision of the activities of an association, which is the topic of this analysis, the association is subject to supervision exercised by a number of supervision authorities and also to a financial audit.² However, the members of an association are best acquainted with the operation of the association and its activities. For this reason, the supervision of the activities of the association by the members themselves should be the most effective, because, according to temporal and logical criteria they could complete it before any other authority. In order to achieve this, the legislator, as well as the authorized bodies of the association must ensure that association members receive clear and effective legal institutes or legal norms. The aim of this article is to examine the applicable norms of the Law on Associations in order to confirm or refute this statement and to assess the normative-referenced value of the analysed institute.³ In this regard, the paper first analyses the legal basis of the internal supervision of the association (Chapter II). The analysis refers to these issues: Membership (Chapter II.1), time limits that are set in the procedure (Chapter II.2) both in the association statute (Subchapter II.2.1) and in legislation (subchapter II.2.2). It further addresses the acts whose violation initiates the procedure, the acts causing the breach (Chapter II.3), and a number of procedural issues in the internal supervision procedure (Chapter II.4). The paper deals with the impact of the case *Lovrić v. Croatia* on national case law (Chapter III) and, finally, the analysis results are summarized (Chapter IV).

2. LEGAL BASIS OF INTERNAL SUPERVISION OF AN ASSOCIATION

Article 42 of the Law on Associations provides the legal basis for exercising the internal supervision of an association. Given the fact that the members of an association are exclusively granted a right to supervision, one can speak of the membership supervision of the association. The significance of Art. 42 of the Law on Associations requires therefore citing the Article in its entirety:

Internal supervision

Article 42

(1) *The mere members of an association supervise the activities of their association.*

(2) *If a member of an association assumes that the association has violated its statute or any other general act of the association, he is authorized to warn the body determined by the statute, or the assembly if the statute does not specify the competent body, and ask for the irregularities to be removed.*

² See more in Art. 43-46 of the Law on Associations.

³ The Law on Associations was published in Official Gazette No. 74/2014, 70/2017 and 98/2019; hereinafter: LoA.

(3) *If such warnings are not considered within 30 days from the date of submission of a written request, and if the request has not been acted upon, i.e. if the competent body or assembly have not organized a meeting within the above mentioned deadline and if irregularities have not been eliminated in another 30 days, the member may file a complaint to the municipal court competent according to the seat of the association in order to protect his or her rights prescribed by the statute of the association.*

The citation clearly states the assumptions that must be met in order to conduct the internal supervision procedure and states the legal consequences in case of failure to conduct it. However, some normative-reference questions arising from Art. 42 of LoA are not explicitly resolved in the legal text or they do not even need to be stipulated by law, because they enter the sphere of internal regulation of association operation, which then creates the need to interpret the analysed norm, and to properly understand the distribution of normative material between the level of the legislation and the association statute. Therefore, all applied interpretive methods must take into account the specific nature of the normative situation marked by the necessity of legal regulation, but also of the autonomy of associations as basic but not exclusive normative frameworks. It should be noted in addition that the regulation of the operation of the association, i.e. the protection of membership rights, constitutes at the same time the regulation of the right to free association as one of the constitutional rights, which sets new requirements before interpretation, especially with regard to the normative framework and scope of the interpretation.⁴ This provides a solid basis for the interpretive approach of Art. 42 LoA starting with the analysis of the assumptions for the application of this institute.

2.1. MEMBERSHIP IN AN ASSOCIATION

Article 42, paragraph 1 of the LoA makes it clear that the internal supervision of the association is reserved to the members of the association. Thus, one of the basic assumptions of applying this type of supervision is membership in the association.

The key question that arises regarding this assumption concerns the moment at which a person becomes a member of an association in order to be in the position to initiate the procedure under Art. 42 of the LoA. There are a few prerequisites to this, and the selection is conditioned by the obligation of taking into account the dynamic nature of the membership in the association. By this I mean that membership can be, and it often is, limited to a time limit (usually to one year) and at the same time conditioned (e.g. by paying a membership fee), as well as the fact that there are potentially several different categories of membership in an association. In consequence, there are, according to the statute of the association, various situations that may cause uncertainty about a person's membership at a particular time, especially if the above-mentioned elements are not clearly stated and provided by the statute.

4 Art. 3. of the Constitution of the Republic of Croatia, Official Gazette No. 56/1990 to 5/2014 (hereinafter: CRC) reads as follows: "Freedom, equality, national equality and gender equality, peace-making, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia and the basis for interpreting the Constitution." See more on the right to free association in Dika, M.; Ljubišić, S.; Medvedović, D.; Šprajc, I., *Komentar Zakona o udrugama (s obrascima)* [Commentary on the Law on Associations (with forms)], B.a.B.e., Zagreb, 2003, pp. 25–28.

For example, the existence of two categories of members in addition to inaccurate statute regulation of the conditions for paying a membership fee for a specific category, can result in a number of questions about the duration and exact determination of membership termination for both categories of members.⁵

As for the question of time when a person has to be a member of the association, it is obvious that the institute of internal supervision is closely related to the exact time of an event's occurrence (action, procedure, act) which, in the opinion of a member of the association, represents a violation of some general act of the association (including the statute) and his/her rights granted by the statute. It is possible that on the occasion of this event, or after that event (and possibly exclusively due to the said event – for example, by a decision of an association body) the membership in the association is terminated. Then, the assumption that a person must be a member of the association at the time of the initiation of the supervision will prevent the application of this institute in situations for which this institute has actually been introduced. This would be contrary to the purpose and goal of this institute, which leads to the conclusion that the person initiating internal supervision must be a member of the association at the time when the crucial event that allegedly violates the statutory rights or some general act of the association takes place. The subsequent possibility of termination of membership or modification of the membership category should not affect the application of the institute in analysis. I consider this interpretation most in line with the needs of this very common situation of expulsion from the association membership as a conduct that causes the application of the aforementioned institute. In addition, this interpretation takes into account the fact that the right to free association is a constitutional right and that a dispute may arise therefrom within the association, which can turn into a legal dispute if certain normative requirements are met.

In this context, the question of potentially different categories of membership in an association arises as a condition for the possibility to initiate internal supervision. I believe that the above- mentioned circumstances should not affect the application of the analysed institute for the following important reasons. In Art. 42 of the LoA the legislator has not introduced a special membership category as a condition for the application of the institute i.e. it has in no way indicated that only one category of membership (or a few) could enjoy the membership right stipulated by this norm. There is only an indication in the form of the qualificative of “full-fledged” (membership), or some other term that would take into account various types of membership in an association. As this is not the case, it remains only to conclude that all members of an association can enjoy the right under Art. 42 of the LoA, even if it was in direct conflict with the scope of rights presupposed by a category of membership within the associa-

5 For illustration purposes see governing membership and termination due to the aforementioned reason in the Statute (Art. 9–12) of the Auto-Moto Club “Lizards” Sisak, in which three membership categories are established (active, passive and honorary members) so that the membership of a member can be terminated in case of “failure to pay a membership fee for more than three months” (Article 12, paragraph 2 of the Statute of the said association), which does not make it clear whether honorary members have an obligation to pay a membership fee. Obviously, the dilemma may arise with regard to the exact determination of the time of termination of membership since there is no clear definition of an obligation to pay the membership fee within a specified period. The same applies to the statutory situation of the culture promoting association Kulturtreger, where there are three categories of membership but only one membership category is terminated in case of failure to pay the membership fee. However, the doubt about the termination of membership is clear when citing Art. 15, paragraph 5 of the Statute (second sentence) reads as follows: “The Association does not adopt singular acts on the termination of membership in the Booksa Club, instead, the data on the termination of membership are automatically updated in the electronic database constituting the Register of Members of the Booksa Club”. Both statutes are sources from the author’s archives.

tion. Interpretations that are in conflict therewith – e.g. that the lowest (as by the number of membership rights) or the initial membership category does not enjoy any decision-making right within the association may not include the application of this institute⁶ – could not, in my opinion, lead to a change in this regard. If this were the case, it would constitute a direct and negative interference between the legal text and the act of the association and the validity of the latter before the law, which is legally unacceptable and indefensible given the clear provision of Art. 42 of the LoA. Thus, regardless of the extent and type of membership in the association that assumes membership rights, the legal right under Art. 42 of the LoA to the application of the right to internal supervision of the activities of the association cannot be reduced or eliminated, even if it is a matter of membership in the association, which does not imply any other membership right – the right guaranteed under Art. 42 of the LoA always remains available.⁷

This part of the analysis is concluded by arguing that the question of the existence of membership in the association at the time of the event that triggers the internal supervision procedure is a necessary prerequisite for the application of the institute in question, and a preliminary question that, if in doubt, must be resolved before deciding the main issue. The membership category as a possible variable for the position of a member within the association does not affect the ability to apply the institute of internal supervision. In the case law to date, some of the views expressed have been repeatedly confirmed and should therefore be regarded as indisputable as far as the case law is concerned.⁸

2.2. TIME LIMITS FOR INTERNAL SUPERVISION PROCEEDINGS

Time limits play an important role in the internal supervision proceedings. By this, I mean not only the time limits as set in Art. 42, paragraph 3 of the LoA but also, as equally important, the time limits set by the association itself in its statute. I consider it completely justified to set the statutory time limits within which a member may approach the competent bodies of an association as referred to in Art. 42, para. 2 of the LoA. For this reason, the paper considers hereinafter the time limits set out by the association statute and by the Law on Associations (Art. 42, para. 3).

6 More on this issue stipulated by Art. 17, para. 1 of the LoA from the perspective of the principles of democratic organization, see in my paper Šprajc, I., *Načela djelovanja udruga prema Zakonu o udrugama [The Association Operating Principles in Accordance with the Law on Associations]*, Pravni vjesnik – Journal of the Faculty of Law in Osijek, Vol. 31, No. 1, 2015, pp. 166–167.

7 I do not think that the stated view will change because of the fact that the member of the association is a minor (except, *mutatis mutandis*, with respect to his/her activities in the supervision procedure referred to in Article 42 – see Art. 12, para. 2 in relation to Art. 17, para. 3 of the LoA), and as already mentioned, for the fact that some members of the association may not have any decision-making rights within the association in accordance with Art. 17, para 1 of the LoA (which should be an exception requiring a specific explanation). Equally, the fact that one of the legal norms is available to the association for regulating membership rights does not mean that the power to deviate from other legal norms (which may envisage a minimum scope of membership rights) is also allowed to the association. However, the power to internal-associational regulation must be exercised within the set legal norms.

8 In support of the claim concerning the availability of the institute to the members of the association, see the decisions of the Supreme Court of the Republic of Croatia passed under No. Gz 8/2016-2 on 3 January 2017, or under No. G 2/2013-2 of 16 January 2013. Due to the fact that the courts have until recently denied jurisdiction in this matter, there are not many court decisions to illustrate it.

2.2.1. TIME LIMITS SET BY THE ASSOCIATION STATUTE

It is obvious from Article 42 of the LoA that the time limits laid down in paragraph 3, Art. 42 of the LoA regulate the period in which the competent bodies of the association must decide or respond to a written request of a member. However, it is easily discernible that the legislator did not set any time limits within which the member addresses preliminarily the competent authorities. This is quite understandable if one considers that the autonomy of the association includes, among other things, the regulation of resolving disputes within the association, as explicitly stated in indent 14, paragraph 3, Article 13 of the LoA.⁹ It undoubtedly derives from the aforementioned provision relating to one of the many elements of the minimum content of the statute of an association that the association has the power to set the said time-limits. In addition, the provision of indent 9, paragraph 3, Article 13 of the LoA determines that one of the necessary elements of the association statute is the regulation of the activities of singular bodies of the association, which makes it clear that the association is authorized to set the time-limits in question.

However, an even more important question arises concerning the nature of the indicated time limits, and the consequences if these time limits are not observed. The main dilemma is the notion of preclusive and indicative time limits. In this context, preclusive time limits presuppose the possibility of losing the right of access to the competent association bodies with a request for remedy of irregularities, whereas indicative time limits do not give rise to such severe legal consequences for the said right of an association member.

The case law is of little help in solving this issue (or set of issues). This is self-explanatory given the fact that different courts have for years denied their jurisdiction in cases related to the internal supervision of the activities of associations or have accepted it partially and sporadically.¹⁰ In this context, we can refer to only one court decision that explicitly addresses the questions raised, so that only the future jurisdiction may be a source to acquire knowledge on these issues.¹¹

9 See more on the autonomy of the association, i.e. the principle of independence of an association, in Šprajc, I., *op. cit.* in note 6, pp. 159–162.

10 In support of this, see the decision of the Bjelovar County Court rendered under No. P-1/14-2 on 11 December 2014 dismissing the claim by a member of the association filed for expulsion from the association. The decision was subsequently upheld on appeal filed by the Supreme Court of the Republic of Croatia (decision No. Gz 9/2015-2 of 12 May 2015), stating the relevant practice of the Supreme Court of the Republic of Croatia. In the decision, the Supreme Court of the Republic of Croatia explicitly states that there is no judicial protection against expulsion from membership in the association, i.e. that in such cases it is not a right of civil nature within the meaning of Art. 6 EC.

11 The claim refers to the judgment of the Supreme Court of the Republic of Croatia (Gz 8/2016-2 of 3 January 2017) stating: "In the proof of this claim, see, first of all, the decision of the Supreme Court of the Republic of Croatia (decision No. Gz 8/2016-2 of 3 January 2017), which states, *inter alia*:"(...) the law prescribes neither a specific time limit within which members of the association must address a particular body of the association or General Meeting (the time limit, which would run from the day of the notification of irregularity), nor a preclusive time limit within which, after the 30-day time limit in which the association has to remedy the irregularities, the members are required to file a lawsuit with the court." Although the decision referred to a law that was in force before the current law, I believe it is valuable in the new legal context, as well. In addition, the decision of the Supreme Court of the Republic of Croatia passed under No. Gz-19/07-2 on 17 April 2008 stating that a member of the association can apply to the competent court only if the competent bodies have not considered the request for internal supervision, is considered indirectly conclusive. In so acting, the Supreme Court of the Republic of Croatia did not state that the reason why the activity of the competent bodies of the association was lacking, would be relevant. In that sense, the above-mentioned decision is necessarily of limited value for consideration of this issue. The respective decision of the Supreme Court of the Republic of Croatia is also important because it explicitly states the right of members of the association to address the Administrative Court of the Republic of Croatia for the possible protection of violated membership rights, which

I am convinced that the cited provisions of Art. 13, paragraph 3, indent 14 and Art. 42 of the LoA are binding for the associations in cases of dispute resolution procedure, including the internal supervision procedure of the association activities. Such regulation may also encompass provisions on time limits when an association member addresses the competent bodies of the association; however, such a provision is not a mandatory part of the said regulation. Accordingly, I find that if an association enjoys the freedom to choose the scope of regulation including the freedom to set time limits in the internal supervision procedure, it also enjoys the freedom to determine the legal consequences of failing to do so. In other words, if the statute of the association stipulates that non-compliance with the time limits shall result in rejection of the member's request, then it is the preclusive nature of the respective time limit. However, due to the autonomy of the association in regulating this type of procedure, the association is free to regulate this issue in a diametrically opposite way, so that the failure to submit the request in line with set time limits does not result in its rejection but possibly in the decision on the substance of the matter.

This view derives, in my opinion, from the legal obligation of the association to regulate not only the dispute resolution procedure but also the autonomy of the association regarding the normative designation of such procedure. In addition, the association may or may not in its statute set the time limits in the internal supervision procedure and decide autonomously on the consequences of non-compliance with the set time limits if it opted for their introduction in the statute. This attitude arises as a consequence of the autonomy of the association in regulating the powers and operation of its bodies (Art. 13, para. 3, para. 9 of the LoA). This view is supported in the statutes of several associations, which were all adopted after the LoA entered into force, and which the competent administrative body designated as in accordance with the cited law. None of the aforementioned statutes stipulate the time limits for addressing the competent authorities in case of dispute and/or conflict of interest.¹²

2.2.2. TIME LIMITS STIPULATED BY LAW

It has been established that these types of time limits are defined as time limits within which the competent bodies of the association must respond to a member's request to initiate an internal supervision procedure. A closer reading of the provision of Art. 42, para. 3 reveals that there are actually two related time limits, which are also identical in their duration.

The wording of the said provision is not overly clear, so that additional interpretative efforts should be made in order to determine exactly what these time limits refer to and, in the case of the second time limit, to determine the date from which the time limit begins to run. The first 30-day time limit begins to run from the day of submission of the written request by the member to the competent body, and within that period, the competent body must con-

was subsequently denied by the Supreme Court of the Republic of Croatia (see the decision of the Supreme Court of the Republic of Croatia cited in a previous note).

12 This situation can be found in Art. 34 of the Statute of the "New Acropolis" – Cultural Association (dated 12 September 2015); then in Art. 32 of the Statute of the Association of Pensioners and Older Persons of the Varaždin County (dated 15 May 2015); and particularly interesting in Art. 46-47 of the Statute of the Croatian Automobile Club (dated 10 July 2015). The latter example is all the more important since this association that has considerable public authority and the statutory norms mentioned may also apply to such authorities. In particular, it is worth noting that the view on the compliance of these statutes with the LoA is common to different administrative bodies authorized to conduct the registration procedure.

sider the request and respond to it, i.e. the competent body (e.g. the General Meeting of the association) must convene within that period. It is obvious that the beginning of the first time limit is indisputable. In spite of the vague wording, one can discern that there is an obligation for the competent body to decide on the member's request within a 30-day time limit or at least to convene the competent body within the same time limit to consider and decide on the member's request.

The second time limit, which is equally long (30 days), is a clear time limit in terms of the actions to be taken within the time limit; the competent body should remedy the irregularities pointed out in the member's request (on condition that these are first established beyond a reasonable doubt). It is questionable, however, when the second time limit begins to run. There are several possibilities in this regard: the expiry date of the first time limit, the day when the competent body convenes or the day of the session of the competent body. Taking account of Art. 42, paragraph 3 of the LoA, as well as the need to effectively protect the rights of a member of the association, the moment of convening a competent body is the only plausible solution in this context.

It would prove an insurmountable interpretative obstacle to consider that the second time limit started to run immediately upon the expiry date of the first time limit; otherwise the legislator would have set a 60-day time limit without specifying various duties of the competent body, or would not have opted for enacting two time limits instead of one. Therefore, the method of interpretation showing that there is no redundancy in the legal text, or according to which the normative text should be interpreted so as to preserve and enforce its meaning without deconstructing either element (the *effet utile* method) points to an imperative of preserving the structure and content of the provision, which clearly sets two time limits (this is undoubtedly referred to by the phrase "in another time limit").¹³

The view that the second 30-day period runs from the moment the session is held, is opposed by the view that there is a need to effectively protect the rights of the member who filed a request. It is well-known that sessions can be postponed, and if the aforementioned view applies, the member will be exposed to an unnecessary and unacceptable risk of repeated denial of both the effective protection of membership rights within the association, and the right to legal protection guaranteed by the legislator outside of the association context. The causal and counter-indicated connection of these two types of legal protection would result in preventing the enjoyment of both protections due to the postponed session of the competent body. In this sense, such an interpretation would be contrary to the need for the protection of rights (it should be emphasized that the right to freedom of association is a constitutional right), which is the basic reason for the existence of this norm. The only acceptable option for setting the time limit at which the second time limit pursuant to Art. 42, para. 3 of the LoA begins to run, is the day the competent body convenes.¹⁴ Thus, the second 30-day time limit within which a member's written request must be decided upon begins from the day when

¹³ See more on the above interpretive method in Potacs, M., *Rechtstheorie*, Facultas, Vienna, 2015, pp. 179–181.

¹⁴ Unfortunately, in the Final Draft of the Law on Associations there is no interpretation of this normative area, so in this sense, historical interpretation is of little importance. See Final Draft of the Law on Associations (April 2014), pp. 21 and 30. The text of the final draft is available on the website of the Office for NGOs of the Republic of Croatia. Link: <https://udruga.gov.hr/UserDocsImages/UserFiles/File/Final%20Project%20Zakona%20o%20udrugama.pdf> Retrieved on 7 January 2019. For more on historical interpretation, see Treder, L., *Methoden und Technik der Rechtsanwendung*, C. F. Müller, Heidelberg, 1998, pp. 54–55.

the competent body convenes. Within this period, the competent body must hold a session, consider the request of the member and decide on it (depending, of course, on the findings on the merits of the member's request). If, at the end of the second term, the member is not convinced of the irregularity remedy, or if the decision passed by the competent body has a negative effect on him, there is still a possibility to bring an action before the municipal court having jurisdiction. This leads to the conclusion that both analysed time limits pursuant to Art. 42, para. 3 of the LoA are of dilatory nature.

The whole situation is easier, when the body of the association deciding on the member's request is composed of one member and does not need to convene separately (which is neither a common nor an impossible situation). In that case, only the first time limit laid down by the law is relevant.

Finally, it should be noted that, even in the case of time limits set by the law, the assistance of current case law cannot be called upon due to the fact that the regulation of internal supervision and the former version of the LoA of 2001 was significantly different in terms of time limits than the currently considered provision of Art. 42 of the LoA.¹⁵

2.3 THE ACT, WHOSE VIOLATION CONSTITUTES A GROUND FOR INITIATING THE INTERNAL SUPERVISION PROCEDURE AND THE ACT BY WHICH THE VIOLATION WAS COMMITTED

Since the LoA came into force, new normative situations have emerged regarding the act that may initiate the internal supervision procedure. In this context, the change consists in broadening the potential legal basis for which a member can file a written request and start the procedure pursuant to Art. 42 of the LoA. While in the previous legal variant of regulation, a member had to relate a contested act with one of the provisions of the statute of the association it is clear that paragraph 2, Art. 42 of the LoA indicates that a member can now initiate the supervision procedure even if he or she considers that there has been a violation of another general act of the association. The assessment criterion, therefore, for determining the alleged irregularity is no longer just a statute but every general act of the association in force.

This statement requires further elaboration; it is necessary to consider the answers to the questions such as which act of the association is general, whether it is admissible to initiate proceedings due to violation of the statute by any general act of the association, etc. If the alleged violation of a general act of an association is an indication to initiate an internal supervision procedure, the circumstance must be put beyond any doubt, which act of the association is general – besides the statute, whose general normative character is a direct consequence

¹⁵ At that time, the provision of Art. 26, paragraph 1 of the LoA of 2011 (Official Gazette 88/2001 and 11/2002) was relevant and read as follows: "The conduct of associations is supervised by their members. Any member who finds irregularities in the implementation of the statute [of the association] is entitled to report it to the relevant body of the association designated in the statute, or to the General Meeting if no relevant body has been designated in the statute. If, within thirty days of its submission, the written report is not examined at the General Meeting or by the relevant body of the association designated in the statute, or if irregularities are not corrected, with a view to protecting his or her rights as stipulated in the statute, the member may bring a civil action in the county court within whose area of jurisdiction the registered office of the association is situated." It is obvious that the quoted provision states only one statutory time limit unlike the provision of Art. 42, paragraph 3 of the applicable LoA.

of the relevant legal provision (Article 13, paragraph 2, first sentence of the LoA). The most reliable answer to the question about the legal nature of the disputed act of the association is found in the statute of the association in question, or in the act itself, which forms the basis of the internal dispute. According to the LoA (Article 13, paragraph 3, indent 9), the statute must contain provisions on the scope of each association body, which in the event of a dispute represents the initial – and depending on the quality of the statutory provisions – a possible and final criterion for assessing whether it is a general act of the association. Considering the legal provisions that determine the competences of the General Meeting of the association, attention should also be paid to the statutory provisions relating to the competence of other association bodies, and in particular to the potential provisions of the statutes that explicitly regulate the general normative powers of other bodies.¹⁶

It is not uncommon that the statutes of the associations contain a list of general acts passed by a singular body of the association empowered to do so, which greatly facilitates determination of the legal nature of the act of the association in question. Furthermore, the act itself should contain elements on which its nature can be inferred. Every general act must be normatively harmonized with the statute of the association, as stipulated in Art. 13, paragraph 2 of the LoA. At the same time, any general act of the association should mainly encompass the provisions that in a general normative way govern the relations within the association and/or the relations of the association in reference to its environment. Primarily, the normative nature of the general act applies to the members of the association, but it is not legally impossible or indefensible that some of its provisions apply to persons not affiliated with the association. The presence of all these normative elements undoubtedly leads to the conclusion that the act in question is a general act of the association, so it is necessary to establish whether such an act has been violated or whether the membership rights guaranteed by the statute to the member initiating the supervision have been violated.

Another question that must be answered before applying Art. 42 of the LoA is whether the subject of the internal supervision procedure may be a violation of the statute and equivalent rights of a member of the association committed by the substantive and/or formal elements of any general act of the association. The issue is all the more important since it is related to the previous considerations of the general act of the association as an act whose violation may lead to the initiation of internal supervision proceedings. In that sense, I do not see any legal provision that would prevent the general act of an association from being designated as a means by which the statute was violated or the membership rights that are based thereon. Accordingly, an internal supervision procedure may also be initiated in this regard. This conclusion further requires from the association bodies to pay special attention to the general acts adopting procedure, but also to their content, since any mistake to this effect may trigger the initiation of the internal supervision procedure, and depending on the outcome it can further result in legal consequences for respective general acts.

¹⁶ In this context, Art. 18, paragraph 1, indent 9 of the LoA, reads: "The General Meeting of the Association: decides on other issues for which the statute does not determine the competence of other bodies of the Association." This allows the interpretation that the General Meeting of an association has general and subsidiary jurisdiction in deciding on all matters and in all operating forms. Thus, it is possible to imagine a statute of an association that retains general authority only for the General Meeting of the association, but also a statute that shares the same authorities in a manner that it respects the applicable legal norms.

Finally, due attention should be paid also to acts by which general acts of the association or membership rights may be violated.¹⁷ As Art. 42 of the LoA does not specify the acts that could cause the violation, it remains to be concluded that such acts include both singular and general acts, but no less singular actions of different bodies and authorized persons of the association. Equally, the violations in question may be caused by a failure to take a certain action or by the adoption of an act. Accordingly, the remedy of violations (or “irregularities”) may consist in the elimination of the act by which the violation was committed or passing the act (if the cause of the violation is a failure to pass an act), or by remedying legal consequences of the action taken or by taking the action (if the cause of the violation is failure to take action). In each of these cases, the key is the existence of a direct causal link between the act or action and the violations committed.

2.4 PROCEDURAL ISSUES IN THE INTERNAL SUPERVISION PROCEDURE

During the internal control procedure, it is important to pay attention to the procedural issues that will arise in the course of the procedure and to which Art. 42 of the LoA refers only partially or through additional interpretation of the cited and other provisions of the LoA or other applicable law. One should always keep in mind the principle of the independence of the association from which derives the authority of the association to regulate internal relations within the association by its own rules, especially if these are free from external (primarily legal) regulation. Before considering these issues, it is necessary to observe the procedural elements whose arrangement in Art. 42 of the LoA does not show these deficiencies.

One of the procedural assumptions governed by Art. 42 of the LoA concerns the responsibility for conducting the internal supervision procedure. Article 42, paragraph 2 of the LoA defines this issue sufficiently. The statute of the association may designate either a special body authorized to conduct and decide in this type of proceedings, or the general and subsidiary competence of the General Meeting of the association as a decision-making body in cases, in which there is no authority of any other association body determined by the statute.¹⁸ Any dilemma in this regard would have to be clarified or at least possible to clarify by reference to the relevant provisions of the statute.

The issue of the content and form of the membership request initiating the internal supervision procedure has been partially regulated. Paragraph 3, Art. 42 of the LoA determines the form by clearly indicating the relevance of the written request form of the member. However, with respect to the minimum element content, the normative situation is not completely clear. Additional interpretation of Art. 42 of the LoA, as well as its logical analysis, ensures, however, the deduction of necessary and essential substantive elements of the request. Primarily, such a request should include the name and surname (or a title if it refers to a legal person) of the member filing the request, followed by the designation of the act and member-

17 See more on the meaning of the term “act” and on the classification of acts in Visković, N., *Država i pravo [State and Law]*, Birotehnik, Zagreb, 1997, pp. 161–163 or in Vrban, D., *Država i pravo [State and Law]*, Golden Marketing, Zagreb, 2003, pp. 318–321.

18 This is due not only to the content of Art. 42, paragraph 2, but also Art. 18, paragraph 1, last indent of the LoA.

ship rights that have been allegedly violated, and a description of the irregularities resulting from the previously described violations. Although not explicitly stated in Art. 42 of the LoA, I believe that a membership request should also include evidence available to the applicant or at least an indication of where the evidence is located. In addition, for the sake of authentication, I hold that the request has to be signed by hand and contain a minimum of communication information to communicate with the applicant (such as a mailing address and/or email address, an indication of whether a member is represented by an authorized person, which requires a power of attorney or a similar document). The lack of any of these elements will at the same time pose a problem in further procedural processing of the request or communication with the member in order to supplement his/her request.

With respect to other procedural issues for which the provisions of the LoA do not indicate a possible solution, the analysis must focus primarily on the statute or other acts of the association. For example, the manner in which the request is to be filed or further communication between the applicant and the association could be governed by the aforementioned general acts of the association. In absence of any similar applicable provision, I consider that the association bodies conducting the internal supervision procedure would be required to act in accordance with the applicable procedural principles.¹⁹ The importance of applying these principles, although not a strict obligation, is, on the one hand, emphasized by designating a proceeding as justly conducted, and, on the other hand, it plays an essential role in the perspective of evaluating the actions of the association bodies in any subsequent judicial proceedings.²⁰ Thus, in the above example of an incomplete request, there is certainly room for application of the principle of assistance to the party (that requires legal assistance).²¹ In this regard, the competent body of an association should ask the member who submitted the incomplete request to supplement it (with the notice that failing to do so may result in rejection of the request – of course, if such action is envisaged by the relevant general act of the association).

A relevant question in the analysed context is certainly the question of the decision-making procedure of the competent association bodies. Pursuant to Art. 13, paragraph 3, indent 8 of the LoA, the normative answer to this question should be found in the statute of the association. To the best of my knowledge, statutes of associations are usually limited to the most necessary provisions in this regard, so if there are no appropriate provisions, the competent authorities should carry out the internal supervision procedure in accordance with the applicable procedural principles. The decision on the request should then follow only after the hearing of the applicant or possibly of other persons involved in the alleged violations of the general acts and the rights of the member of the association.²² The institutes of exemption

19 More on legal principles as sources of law and their role in the application of law, see in Vrban, D., *op. cit.* in note 17, pp. 404–407 as well as in Bydlinski, F., *Grundzüge der juristischen Methodenlehre*, Facultas, Vienna, 2012, pp. 93–97.

20 In this regard, see Tyler, T. R., *Procedural Justice*, in Clark, David S. (ed.), *Encyclopedia of Law & Society: American and Global Perspectives*, SAGE, Vol. 3, 2007, p. 1190 which determines the fairness of the proceedings by the presence of four key factors: 1) the ability to participate, 2) the neutrality of the forum, 3) the trustworthy authorities, and 4) the dignity and respect of the procedure.

21 It is an applicable procedural principle, which is indicated by the fact that this principle is included in fundamental procedural codifications such as the Law on General Administrative Procedure (hereinafter: LGAP), Official Gazette No. 47/2009 (as a principle of assistance to a party – Art. 7), or the Law on Civil Procedure (hereinafter: LCP), Official Gazette No. 53/1991 to 70/2019 (Art. 11).

22 V. Vrban, D., *op. cit.* note 17, p. 406. which also states this principle among the principles of administration of justice and treatment. The principle is also found in the LGAP (Article 30) but also in the LCP (Article 5).

and/or conflicts of interest, which otherwise are part of the statute of the association (pursuant to Article 13, paragraph 3, the last indent of the LoA) should also be applied from the very beginning of the internal supervision procedure due to the probability and possibility of verification of legal activities in line with the statute of the associations in subsequent judicial proceedings.²³ The decision of the competent body should be carefully interpreted in such a way as to leave no doubt about the correctness and regularity of the activities of the association bodies.²⁴

Finally, it should be pointed out that the possibility of exercising legal protection in court proceedings constitutes the reason for the competent body to conduct the internal supervision procedure very carefully and according to the rules of procedure. It is less likely that the courts having jurisdiction will continue to refuse to rule on the actions and acts of the association, which makes the assessment of the legality and statutory nature of the association more predictable and dependent on the application of law, other regulations and general acts of the association. The list of normative criteria according to which the performance of the association bodies is assessed should also be supplemented by the case law of the European Court of Human Rights. In this respect, the decision *Lovrić v. Croatia* is of particular importance and shall be analysed in the following chapter of this paper.

3. LOVRIĆ V. CROATIA – EXISTING AND POTENTIAL LEGAL CONSEQUENCES

In 2017, the European Court of Human Rights (ECHR) rendered its judgment in this case.²⁵ In the meantime, the judgment has become final in the system of the *Convention for the Protection of Human Rights and Fundamental Freedoms*, so that the consequences and significance of the judgment can be analysed as established legal facts (hereinafter: *the European Convention or the EC*).²⁶ This case is the result of a complaint filed by Mr Lovrić before the ECHR because the courts in the Republic of Croatia denied their jurisdiction in the case of Mr Lovrić's expulsion from membership in the hunting association. Having carried out the procedure within the association, which was marked by numerous violations, Mr Lovrić initiated legal proceedings under the then applicable law.²⁷ Both court instances (the competent County Court and the Supreme Court of the Republic of Croatia) removed the jurisdiction in the particular case, thus Mr Lovrić exercised his right of filing a constitutional complaint.

23 In the case of this institute Vrban, D., *op. cit.* note 17, p. 406. states the principle of *Nemo iudex in propria causa* but also the principle of the right to exemption of judges as principles of administration of justice and treatment. The inability to decide in its own matter is also referred to by the LGAP in the form of an institute of exemption of an official (as a basic provision but not as a principle in Article 24), and also in the LCP (in Article 71). More on exemption in general administrative procedure see in Šprajc, I., *Institut izuzeća službene osobe u Zakonu o općem upravnom postupku*, [Institute of Exemption of Officials in the General Administrative Procedure Act], Proceedings of the Faculty of Law in Split, Vol. 55, 2/2018, pp. 469–496.

24 See with respect to this institute Art. 98 of the LGAP or Art. 338 of the LCP.

25 Mr Lovrić's application is lodged under number 38458/15. The judgment was delivered by majority vote on 4/4/2017 (Judge Kjølbros dissented).

26 The convention was published in Official Gazette No. 18/1997 to 2/2010.

27 The law in question is quoted in the note 15 of this paper.

The Constitutional Court of the Republic of Croatia did not, however, take a positive view of the filed constitutional complaint, explicitly citing the violation of the right to a fair trial (see paragraphs 13–18 of the ECHR judgment in the *Lovrić* case), and after the constitutional complaint had been dismissed, the proceedings before the ECHR were instituted.

In the course of the proceedings, the ECHR first decided that the application was admissible pursuant to Art. 6(1) EC as the provision guaranteeing the right to a fair trial in the EC system. This is an extremely important finding because it is based on the conclusion that the existence of legal protection for members of the association and their rights granted by the statute in their national law is a clear sign that a civil right exists as a basis for the application of Art. 6 (1) EC. In this way, the dispute over expulsion from membership was marked as a serious and genuine dispute over freedom of association, and at the same time, a positive link was established with the ECHR's jurisdiction over the right to a fair trial.²⁸ In the continuation of the proceedings before the ECHR, all claims of the Croatian Government on the primacy of the association's autonomy over the right to judicial review of their conduct were rejected, which ultimately led to the conclusion that the refusal of Croatian courts to rule in the *Lovrić* case on the merits of his lawsuits violated his right to a fair trial and regarding his previous expulsion from the membership in the association.²⁹ The shortest but most thorough illustration of the ECHR position in the case at hand, but also of the normative state of affairs in Croatian case law in the analysed segment is the following excerpt from the judgment:

“The Court accepts that in such cases the scope of judicial review may be restricted, even to a significant extent, in order to respect the organisational autonomy of associations. However, in the present case the applicant, who contested his expulsion from the association for being in breach of its statute, was completely denied access to court. It is difficult to discern whether that was as a result of imprecise or incomplete legislation, its interpretation by the domestic courts, or both. What is important is that the applicant should have had access to court but was deprived of it. There has accordingly been a violation of Article 6 § 1 of the Convention.” (Paragraphs 73–74 ECHR judgment in *Lovrić v. Croatia*).³⁰

This ECHR judgment is important not only for being a signal that the case law in Croatia until this judgment had not been in conformity with the European Convention, but even more so as a starting point for considering possible directions for future development in this field. First and foremost, associations will need to pay attention to the internal supervision procedure of the association, in particular if the procedure is initiated by a member who has been excluded from membership in the association. The decisions made in this procedure must be the result of a carefully conducted procedure based on provisions laid down in the statute and legislation, and general principles can and certainly must be the basis for the procedure in certain situations. It is particularly important that decisions rendered within the associations are properly reasoned and based on norms laid down in the statute (of the association).

28 In that view, the Court rejected the particular and contrary arguments of the Croatian Government made during the proceedings (paragraphs 43–47 of the ECHR judgment in the analysed case).

29 The Croatian Government emphasized that the possibility of applying judicial review with all or most of the decisions of the association would constitute an disproportionate interference of the State (through judicial authorities) with the activity of an association and would virtually abolish the autonomy of the associations (paras. 64–66 ECHR judgment in the analysed case).

30 A more detailed summary of the judgment in the *Lovrić* case see in Šprajc, I., *Komentar presude Europskog suda za ljudska prava u slučaju Lovrić protiv Hrvatske*, [Commentary on the Judgment of the European Court of Human Rights in Case *Lovrić v. Croatia*], *Hrvatska pravna revija*, Vol. XVIII, No. 6, 2018, pp. 79–82.

However, it would be wrong to suggest that the procedure and decision quality must be taken into account only in the internal supervision procedure initiated by the excluded member. In my opinion, the internal supervision procedure will increasingly be thoroughly observed by the competent courts, since the ECHR judgment in the *Lovrić* case is undoubtedly a landmark in expanding the scope of the association activities subject to judicial review. In addition, an increase in the normative scope of the relevant provisions of the LoA makes it clear that the preconditions for establishing regular judicial review over the majority of the activities of the associations are obtained. Of course, this will always depend partially on the status of the statute and other general acts of the association, but undoubtedly, the competent courts as well as national legislation will have to find a balance between the autonomy of the associations and the powers of the courts to review the activities of the association.

As regards the legislator, the normative formation of Art. 42 of the LoA shows that a need for closer supervision of the activities of associations is accepted at the level of legislation. It would be wrong to expect that any future version of the LoA will narrow the scope of internal supervision at the legislative level. As far as the judicial power is concerned, the decisions of the highest court in Croatia show that a turning point in the case law has already been reached. In the decision of the Supreme Court of Croatia which was passed after the judgment in the case *Lovrić v. Croatia* became final, the view of the ECHR was applied, and by direct reference to the ECHR judgment, the decisions of the lower courts denying the jurisdiction regarding expulsion from the association were quashed.³¹ How far will the judiciary subject the conduct of associations to judicial review is an open question. The lessons of the *Lovrić case* show that the responsibility for the denial of the right to a fair trial can unfortunately be attributed to the relevant courts as well. Therefore, I hold the expectation legitimate that competent courts will now be open to the possibility of closer supervision of the activities of associations, and this without a decisive impetus by the ECHR.

Moreover, I am convinced that now the pressure of the members of the association will shift to checking various forms of possible violations of rights stipulated by the statute (of an association), which at the same time result in violation of some general act of the association. Likewise, I believe that the issue of membership denial is also a potential test of the scope of judicial review over associations, and that the first legal disputes of this type can be expected in the near future. I do not see any particular reasons for not extending the judicial review of the association conduct to the cases of internal application of a general act in the association. The specific regulation of conflicts of interest within an association in a specific context – for example, in the implementation of community projects done by the association with public funds³² – may, in practice, result in disputes whose resolution may lead to a number of judicial proceedings. It seems perfectly acceptable and even predictable that one of the judicial proceedings will be resuming the former internal supervision procedure. Furthermore, the existing legal regulation and the diversity of statutory provisions within the associations are such that it is entirely conceivable that litigation in issue of denial to membership could arise. In this context, discriminatory motives as reasons for membership denial may cause preliminary

31 This is a review decision of the Supreme Court of the Republic of Croatia rendered under No. Rev-241/2013-2 on 28 November 2017.

32 To this effect see Art. 40 of the Regulation on the Measures and Procedures for Financing and Contracting Programmes and Projects of Public Benefit Interest Implemented by Associations, Official Gazette No. 26/2015.

intra-associational supervision procedures and consequently judicial proceedings pursuant to Art. 42 of the LoA (which may be initiated by members of the association if, for example, they participated in the membership application procedure),³³ but also by singular judicial proceedings in accordance with the Anti-Discrimination Act (initiated by a person interested in joining the association).³⁴ The extreme potential discriminatory conduct of the association represents a normative area that is more than sufficiently broad, and open to various interpretations and, consequently, to conflicts that are likely to be resolved before the competent courts.³⁵

The outcome of these potential proceedings is currently uncertain as are the views of the judiciary, but I am convinced that there will be more disputes within the association based on Art. 42 of the LoA entailing a judicial epilogue. Crucial in this context is the fact that the ECHR has established the existence of a civil right as the basis for the application of Art. 6(1) of the EC for the legal protection that Croatian law guarantees to members of the association in carrying out the internal supervision procedure. This is the most important outcome of the ECHR judgment rendered in the case *Lovrić v. Croatia*.

4. CONCLUSION

The results of the analysis of the legal provision on internal supervision of the activities of the association (Article 42 of the LoA) as well as national and international case law in the same segment show as follows:

- The institute of internal supervision of the association is intended for members of the association as a means of supervising the activities of the association. Membership in an association as a prerequisite for the application of this institute must be established at the time of occurrence of the event that allegedly violated the member's right stipulated in a statute i.e. some general act of the association;
- In the course of the application of the institute, it is very important to observe the time limits set by the law and by the statute of the association. While time limits set by law are relatively easy to establish – with additional interpretative effort in determining the beginning of the course of the second time limit referred to in Art. 42, paragraph 3 of the Law on Associations – the association may by statute set the time limits for the application of this institute of internal supervision. A more complete regulation of dispute reso-

33 It is easy to imagine a situation where more than one member decides on membership in an association, and in the case of a negative decision the minority of members, convinced that the nature of the decision is not in compliance with the statute and law, stating that it is a discriminatory decision. This is not only a matter of discrimination against persons not admitted to membership, but also of discrimination against a minority of members of the association whose right to associate with other persons may in this case be breached.

34 The Anti-Discrimination Act was published in the Official Gazette No. 85/2008 and 112/2012 Art. 8 is noteworthy and reads in relevant parts as follows: "This Act shall apply to the conduct of all state bodies, bodies of local and regional self-government units, legal persons vested with public authority, and to the conduct of all legal and natural persons, especially in the following areas: 9. membership and activities in trade unions, civil society organisations, political parties or any other organisations; (...)"

35 As an introduction and more on the topic see Šimonović Einwalter, T. (ed.), *Vodič uz Zakon o suzbijanju diskriminacije*, [Guide to the Anti-Discrimination Act], Ured za ljudska prava Vlade RH, Zagreb, 2009.

lution within the association should lead to setting the time limits and legal consequences in case of (non)compliance. Accordingly, it can be a matter of preclusive or instructive time limits, which is a consequence of the autonomy of the association in this regard;

- The LoA has extended the scope of the analysed institute when, in addition to the statute of the association, it defined other general acts of the association as acts in violation of which the institute of internal supervision can be activated. This constitutes a significant change in the real and potential scope of this institute, which could in future affect the broadening of judicial review to the activities of an association. As regards the acts which may be violated there are no notifications pursuant to Art. 42 of the LoA, which can be interpreted as non-exclusion of any potential act. Therefore, this could be both a general act and a singular act, or a singular action or failure to take a certain action or to pass an act. Regardless of the act in question, it must be possible to establish a direct causal link between the act in question and the violation committed;
- in the analysis of each legal procedure, certain procedural issues are raised which need to be resolved. The same applies to the analysed internal supervision procedure, all the more so when the internal supervision procedure of an association is only basically regulated by the LoA, while a part of the regulation – due to the principle of the autonomy of the association – must be left to the statute of the association. Having gained insight into the statutes of specific associations that form few provisions, if any, on these issues, I consider that the application of general procedural principles is the most acceptable and legally secure way of guaranteeing a certain level of protection of membership and procedural rights of the members of an association. It is the case-law of the court that should determine the applicability of these principles in the internal supervision procedures of an association activities;
- the ECHR judgment in the case *Lovrić v. Croatia* is the most significant decision in the context of internal supervision of the activities of an association. The substantive nature of the case is primarily reflected in its influence on national judicial systems by the power of arguments, as evidenced by the recent and previously cited practice of the Supreme Court of the Republic of Croatia in the analysed scope of LoA application.³⁶ Undoubtedly, the ECHR judgment in the case *Lovrić v. Croatia* has provided judicial review of associational decisions (resolutions) to exclude members from an association. However, I believe that the reasoning of the judgment, which rests on the view that every excluded member is entitled to judicial review of the decision on expulsion, since it is in the field of the civil law, will make a solid legal basis for further development of judicial review of the activities of associations. In this context, more judicial proceedings are expected that will not necessarily apply only to cases of expulsion from the association;
- it can finally be noted that the institute of internal supervision of the association referred to in Art. 42 of the LoA allows the members of the association a wide scope of supervision over the association. The wider legislation scope of cases breaching general

36 On the obligation to enforce the final judgments of the ECHR see Burić, Z. *Obveza izvršenja konačnih presuda Europskog suda za ljudska prava – u povodu odluke i rješenja Ustavnog suda Republike Hrvatske broj U-III/3304/2011 od 23. siječnja 2013*, [The Obligation to Enforce the Final Judgments of the European Court of Human Rights - Regarding the Decision and Order of the Constitutional Court of the Republic of Croatia No. U-III/3304/2011 of 23 January 2013], *Zagrebačka pravna revija*, Vol. 2 (2013), No. 1, pp. 109–124 (in particular pp. 110–114). Available at: <https://hrcak.srce.hr/129499> (Retrieved on 1 March 2019).

acts of an association and of membership rights to which this institute can apply is yet to be shaped by case law. However, after incorporating the view of the ECHR expressed in the case *Lovrić v. Croatia*, it can be expected that the scope of judicial supervision over the activities of an association will increase, which at the same time will allow for a thorough supervision of the activities of an association by its members. The status of such a legal relationship is mostly affected by members and the association itself. The legal doctrine can only monitor, analyse and respond in a timely manner to all future changes in the course of the development and application of this interesting and dynamic institute, whereas the view of competent courts remains unknown, since they have not participated in the development of this institute due to their denial of jurisdiction in these issues for many years.

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UNUTARNJI NADZOR NAD RADOM UDRUGE

Sažetak

Autor u radu, prvi put u našoj doktrini, analizira institut unutarnjeg nadzora nad radom udruge iz Zakona o udrugama (Narodne novine, broj 74/2014, 70/2017, 98/2019). Cilj rada je izvršiti normativnu evaluaciju instituta koji stoji na raspolaganju članovima udruge kao subjektima koji su najpoznatiji s radom udruge. Razmatraju se pretpostavke unutarnjeg nadzora kao i sporna pitanja povezana s provođenjem odgovarajućeg postupka primjenom različitih interpretativnih metoda. Osobita pozornost posvećena je onim dijelovima instituta koji se moraju urediti statutom udruge. Analiza obuhvaća i prikaz te stvarni i potencijalni utjecaj presude Europskog suda za ljudska prava u slučaju *Lovrić protiv Hrvatske* na budući razvoj sudske prakse u Republici Hrvatskoj. Predviđa se nastavak širenja sudske kontrole nad radom udruge. Zaključno se sažimaju rezultati analize.

Ključne riječi: udruga, unutarnji nadzor, Zakon o udrugama, Europski sud za ljudska prava



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