



**CROATIA:**  
**Submission to the Committee on the Elimination of Discrimination against  
Women**

**For the 61<sup>st</sup> Session  
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**Shadow report  
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covering articles of the Convention which are in the focus of their work

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## **Article 1 and 2 of the CEDAW Convention - Discrimination<sup>1</sup>**

Despite the efforts of Croatian governments and positive changes in the form of the anti-discrimination measures package<sup>2</sup> in the previous period, it is clear that antidiscrimination legislation is not applied in practice due to the lack of implementation measures. Because of the strong patriarchal heritage, men exercise dominant control in all aspects of daily life in Croatia, and women make up the largest group which is constantly confronted with discrimination in the social, public and private spheres.

Discrimination of women is most clearly expressed in the area of labour and employment, where women, regardless of level of education, professional competence and experience are in a more difficult position. Women make up the majority of the unemployed, temporary staff, underpaid industries and victims of harassment in the workplace<sup>3</sup>. Croatian labour market is characterized by deeply structured gender inequality and prejudice that the jobs that society traditionally intends for women are less socially useful and financially less worthy. Women in Croatia are in higher percentage educated than men, but still under-represented in those positions where important social, economic and political decisions are made. Women still do not have the same opportunities for advancement as men; employers often consider it an aggravating circumstance that women have children; and age often manifests itself as an obstacle in finding employment. Due to the deeply ingrained stereotype that women are obliged to take care of family members, especially children, they are often forced to sacrifice their careers. The lack of an accessible systemic child care services contributes to the fact that women are under constant pressure to balance the burden of caring for children and caring for the economic needs of the family. Harassment of women in the workplace by superiors is omnipresent, but still tolerated in. Victims of abuse in most cases are in fear of losing their jobs and they do not report officially abuses, to which the slow and inadequate legal protection mechanisms and mild penalties for abusers strongly contribute.

For example, in one of our cases (the civil proceedings lasted from 2007 until 2014), our client was subjected to harassment in her workplace almost daily for one year by the director. He constantly insulted her, commenting on her physical appearance and degrading her. In the end, she was forced to sign consensual termination of her employment contract. The first instance court awarded her non-

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<sup>1</sup> The Anti-Discrimination Act (ADA) was amended in 2012, but the recommendations provided by CSOs were not included. Furthermore, ADA mechanisms are being used only sporadically, and there are only few relevant anti-discrimination case laws. Since 2014, the Office of the Ombudsman publishes a report on discrimination as an integral part of its annual report. Human rights CSOs published separate annual reports in which they elaborated important case studies and presented recommendations on how policies and legislation should be improved and implemented. The National AD Plan failed to accomplish envisioned results. The definition of discrimination, as well as the objectives and measures set to eradicate discrimination in the country, were not adequate and realistic to be accomplished (no indicators, time frame, exact implementers, etc.), and the document was not harmonised with other relevant documents. Therefore, the NADP failed in its implementation and in achieving envisioned objectives.

<sup>2</sup> Anti-discrimination Act (2013), Official Gazette 85/08, 112/12, available at: <http://www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije>

<sup>3</sup> Recommendations related to the elimination of discrimination based on gender in the labour market have not been taken into consideration. Women are the majority of unemployed population (in the last quarter of 2013, out of 21,1% of registered unemployed persons, women made the 52,9% ). There are several reported cases of women fired or degraded during a pregnancy leave as well as less paid than men for equal work etc. Due to the ineffective judiciary, women workers remain unprotected. The last change of the Labour Act has deteriorated the already poor working conditions of women, especially in the private sector. All amendments proposed by the Women's Front (Alliance of women's human rights groups and women's sections of trade unions) were rejected.

pecuniary damages in the amount of 10,000.00 HRK, and at the same time ordered her to reimburse the cost of the court proceedings in the same amount. Court of Appeal ordered the employer to pay her additional 20,000.00 HRK. It is evident that such a small compensation (amounting to 4,000.00 EUR) does not have a sufficient effect and is disproportionate in relation to the negative consequences.

Another problem for women at the labour market is pregnancy, which regularly causes a whole range of negative consequences, like termination of employment, sharp reduction of income, the inability of further promotion, etc.

Our two clients, for example, were employed as handball judges and were registered on the national and international list of handball referees. When pregnant, they requested inaction of their positions. Soon, they found out that the Association of Croatian Handball Referees removed them from the international list of handball referees and their place was assigned to male colleagues. When asked about the reasons for their removal, the vice-president of the Association said they haven't judged for a long time and that they are perhaps good cooks and homemakers, but that handball is something different. On the other hand, none of their male colleagues were ever removed from the list due to temporary inability to work.

To conclude, the antidiscrimination legislation never came into life, and it is unlikely that positive changes will happen without the Government's pro-active approach.

**Recommendations:**

Continuous and mandatory education for prosecutors and judges;  
Establishment of the central register of cases submitted to legislative bodies as discrimination on grounds of gender;  
Monitoring and evaluation performed by independent experts.

### **Article 3 - Guarantee of Basic Human Rights and Fundamental Freedoms**

Physical, sexual and economic endangerment of women by their male partners is particularly present in Croatia and there is an urgent need to further improve the system of prevention and sanctions. Unfortunately, discrepancy between *de iure* and *de facto* situation continues to exist. Too often is violence against women still perceived as a private matter, relevant institutions do not react *ex officio*, the danger is often not detected in time and violence is to a large extent tolerated. The police, the courts and the welfare centres which should play a key role in such cases often reflect a fundamental misunderstanding of the problem<sup>4</sup>.

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<sup>4</sup> As reported in November 2012 by Rashida Manjoo, UN Special Rapporteur on Violence against Women, its Causes and Consequences, during her ten-day fact-finding visit to Croatia, "domestic violence affects as many as one in three families, and up to 40 percent of Croatian citizens know at least one victim of domestic violence". According to police statistics, 45 cases of domestic violence are reported every day in Croatia, with the number rising to 60 on holidays, when family tensions often run high. Croatia adopted several progressive legislation and international conventions on gender-based violence, but observed numerous shortcomings in their implementation. The Republic of Croatia signed, but did not ratify the Istanbul Convention, most probably due to its obligations in the area of providing shelter and support to victims. As reported by the UN independent expert, the State authorities tended to focus on preserving family unity, she noted, rather than protecting the victim's human rights. Courts and law enforcement officials seldom employed protection measures, leaving victims at the mercy of perpetrators and often forcing them to flee their family homes.

For example, there is an omnipresent trend of double arrests by the police in cases of domestic violence. Police does not systematically determine the primary aggressor and often reports and arrests both partners, which leads to situations in which the victim is treated in the same way as the perpetrator. Consequently, many victims are faced with possible arrests if they seek police intervention. Too often misdemeanour courts impose penalties to both victims and abusers. The court often ignores the fact that prior to her report the victim had been exposed to long term violence. Due to the dangerous practice of confrontation, which is widely used, victims are also exposed to additional traumatisation in the courtroom. Victims don't have any institutional support from the state - a person of trust who would provide them emotional and legal support during the court proceedings. Courts rely only on the victim who often, due to persuasion and pressure, decides to accept her right not to testify against her partner, which results in acquittals. The courts do not recognize domestic violence as a threat to the welfare and safety of the victim, but as mutually disturbed partner relation and in the majority of cases impose only a fine. Thus, they indirectly punish the victim as well, because the funds for payment of fines are usually taken from the family budget.

The insensitive approach to the issue of domestic violence is also present in many social welfare centres. Welfare centres give priority to the preservation of the family and often treat the victim and the perpetrator in the same way. They do not proactively offer counselling or any kind of help to the victims in the form of housing care or financial support. It should be pointed out that the practice of conducting mediation in cases of domestic violence can be counterproductive and extremely stressful for the victim. Also, the common position of the centres is that mothers who are victims of violence tend to manipulate the children because they want to avenge to their abusers. Psychologists in the Child Protection Centre Zagreb, where majority of such cases are reviewed, continuously use the phrase “mothers emotionally abuse children” in order to prevent them from loving and caring for their fathers.

In one of our cases, the centre for social welfare recommended that the court obliges parents to joint psychological treatment despite the fact that the husband was convicted for domestic violence and given the protective measure of prohibition of approach. The centre showed no understanding of the problem and thus treated the victim in a discriminatory manner, equalizing her with the perpetrator.

In another case a representative of the centre for social welfare in the proceeding related to parental care acted with animosity towards the mother, working against her in favour of her former husband. Despite repeated objections from the mother alerting to discriminatory treatment, the employee of the centre was not exempted from the case. Later the mother found out that he was a convicted family abuser and thus should not have been employed as a psychologist in the centre.

Also, bearing in mind socially accepted views about of fathers as breadwinners and women as housewives, in most cases women are materially dependent on their husbands and it is difficult to achieve financial independence. Because of the economic crisis, it is almost impossible for them to find a job and become self-sustainable. As the legislation does not correspond to actual circumstances, men are often favoured in court proceedings. Weaker

economic status is assessed as an aggravating circumstance in deciding which parent the child should live with, and assessment of parental skills often comes down to determining the financial situation of parents.

For example, in one case the woman had a weaker social status than her former husband. After the divorce she was left without any financial means while he continued to live in their family home denying her right to joint property. On the basis of his economic status, the centre for social welfare decided that the children should live with their father. In another case the centre decided that it is in the child's best interest to live with his father because the mother was unemployed.

Here we would like to point out the recent decision of the Croatian Constitutional Court in which the court expressed the opinion that social and material criteria should be the primary principle for the evaluation of the child's best interest in cases relating to parental care. However, it is necessary to assess the emotional and psychological needs of the child in every specific case.

It is also important to be aware of the problem of legal representation of women victims of domestic violence, who are often of poor economic and social status and can't afford a lawyer. Given the fact that the legal system in Croatia does not offer free representation in misdemeanour and criminal proceedings, victims are left without any legal representation and are forced to face the prosecution on their own, which is why they often give up on the prosecution.

Finally, it is of great importance to stress that the European Court of Human Rights in the observed period decided on several cases concerning the failure of the Republic of Croatia to provide adequate protection to women who were victims of domestic violence. B.a.B.e. lawyer filed complaints. In the case of Branko Tomasic and others against Croatia, application no. 46598/06, European Court stated that the state was aware of the seriousness of the perpetrator's threats and should have taken all reasonable steps to protect the victim. Since it failed to do so, the State was found guilty of a violation of art. 2. of the Convention. In this specific case the perpetrator had repeatedly expressed his intention to kill his wife and their child. He was sentenced to five months imprisonment and psychiatric treatment that was never properly conducted. Six weeks after being released from prison he killed his wife, daughter and himself. In the case of A against Croatia, application no. 55164/08, the European Court found that Croatia had violated Art. 8. of the Convention, which protects the right to private and family life. For almost two years the perpetrator had verbally and physically abused his wife. It was determined that he was suffering from various mental disorders, and three criminal and four misdemeanour proceedings were conducted. The courts have issued a couple of measures and penalties, but most of them were never executed. In the case of Bljakaj against Croatia, application no. 744812, the European Court found a violation of Art. 3. of the Convention. The perpetrator was well known for his aggressive and violent behaviour and illegal possession of weapons. On several occasions he seriously threatened others and was sentenced to prison for death threats against his wife. Finally, when out of jail, after police was alerted of his conduct but did not act on the report, the perpetrator shot and

seriously wounded his wife and killed her lawyer. The Court determined that the State failed to take all reasonable steps to prevent the event and protect the right to life and safety of its citizens. In the case of Maksimovic and others against Croatia, application no. 24008/07, the applicants have addressed the court for violation of Article 8 of the Convention. The perpetrator repeatedly threatened his former partner that he was going to kill her, her family and their son. Shortly after the indictments against him were lodged, he came with a shotgun to the house where his former partner lived and shot her twice in the head. Given the fact that the parties reached a friendly settlement of the dispute, the Court did not decide on this case.

We consider it important to point out the case which the European Court is currently deciding on, in which the domestic court decided to suspend criminal proceedings of the perpetrator who was accused of domestic violence because of a change in the legislation that happened in the middle of the proceeding. According to this change, domestic violence was abolished from the list of criminal offences. The state failed to predict a way of completion of individual proceedings initiated pursuant to the provision of the Croatian Criminal Code, due to which the victim was placed in a situation where she had no appropriate remedy through which she could obtain protection of her rights.

**Recommendations:** Trainings of police in order to be able to determine on site impartially, objectively and professionally who is the perpetrator and who is the victim, and also determine the use of justifiable self-defence in each case;  
Introduction of sanctions for state servants who fail to follow the Code of Conduct to the letter in cases of domestic violence;  
Ratification of the Istanbul Convention, and consequently, adequate budgeting for prevention, support to survivors and sanctioning of perpetrators;  
Establishment of structural support to survivors who are economically not self-sustainable after leaving the abusive relationship (model of transitional accommodation has been developed by B.a.B.e. in the project supported by the UN Fund to End Violence);  
Establishment of sustainable cooperation between the Ministry of the Interior and CSOs dealing with domestic and gender based violence.

The issue of sexual violence in Croatia can be analysed on several levels. As far as legislation is concerned, although there is some positive development in the field (establishment of offices for support for victims and witnesses, introduction of the Protocol of Conduct in Case of Sexual Violence), there are also major setbacks. First of all, we refer to changes in the Penal Code which became official on January 1, 2013. There are two major changes that concern us: one is the decrease of minimum penalty for rape from 3-10 years down to 1-10 years. In our experience, the most common sentence is close to the minimum proscribed sentence. In reality, this means that victims of sexual violence will suffer 5-6 years of court procedures, and the rapist will get one year sentence, while in fact being released from prison after 8 months. Secondly, a whole new type of criminal offence has been instituted - Sexual intercourse without consent, with a minimum sentence of 6 months up to 2 years. As a result, rape cases are often qualified as sexual intercourse without consent, especially since the definitions of both these crimes are practically the same in that they deal with the concept of threat.

For example, the case of multiple perpetrators (5) who raped a minor on November 3, 2013, was qualified as sexual intercourse without consent because the victim was unconscious and under the influence of alcohol (thus rendered unable to give consent?!). After this was announced in various national and local media, and after pressure from NGOs and institutions, qualification of this crime was changed to rape.

This is a good example of various problems connected to the handling of cases having to do with sexual violence. In the first place, there is a tendency to minimize the level of violence, followed by poor understanding of the law and, quite often, corruption. Also, the information often leaks to the press (containing detailed descriptions of the crime, age and other personal specifics both about the perpetrator and the victim).

For example, in the case of rape from November 2012, a 20 year old girl was raped and badly injured. Over the next several days, newspapers were filled with details of the rape, injuries, the identity of the perpetrator was revealed, even his picture, and it was stated that she was his girlfriend so her identity was basically revealed as well. Her doctors gave detailed descriptions of her injuries, as well as possible outcomes and prognoses.

It has to be stated that there is no existent policy on sexual violence or any other type of violence against women, but domestic violence (National Strategy for the Prevention of Domestic Violence, various local strategies, National Team for the Prevention of Domestic Violence and Violence against Women etc.). Development of policy in this area, therefore, depends on the enthusiasm of dedicated individuals from NGOs or institutions. Since there is no strategic or long term planning for development in this area, there is also no structural funding. Consequently, only NGOs through projects succeed in delivering support to victims.

Although the Croatian Government has adopted the Protocol of Conduct in Case of Sexual Violence on November 29, 2012 and monitoring will start in the next few months, there is still not enough preparation for implementation through specialized education for representatives from governmental institutions. Overall, we can conclude that cooperation of institutions is still insufficient and there is not enough understanding of the importance of the interdisciplinary approach, which is especially obvious in working on prevention with vulnerable groups.

Practice reveals that victims are at times encouraged to rescind, tone down their statements, sometimes even to take lie-detector tests. In a word, they are not trusted and are more or less subtly prevented from realizing their human and civil rights. If a person is unable to bear witness in person, whether because of physical inability or fear, he/she has the right to do so via video link. However, this is a novel idea within the law and is left to the discretion of the presiding judge. More often than not, the judges refuse their permission, thus effectively making this fine legal provision useless.

Absence of any relevant data on victims and perpetrators (except age and sex) as well as the absence of any data regarding the duration of procedures and the number of cases that get dropped or dismissed between the stage of reporting and prosecution are also factors that

contribute to limited possibilities in improvement of knowledge and finding better solutions in resolving cases and supporting victims of sexual violence.

Support to victims - recognizing the importance of helping and supporting victims of sexual violence is lacking in Croatia when compared to the victims of domestic violence. The lack of systemic, easily accessible and free help and support, particularly in parts of Croatia where few or no services are available, also affects the number of victims willing to report sexual violence. As of 2008 there are only 7 official agencies that provide support for victims and witnesses. They function under the auspices of various County Courts in Croatia. Long term support for victims of sexual violence is available only from NGOs, but there is only one NGO that specializes in working with victims of sexual violence, Women's Room – Centre for Sexual Rights. According to the European Parliament and the Council of Europe Task Force to Combat Violence against Women Standards, there should be at least 11 centres for support to victims of sexual violence (1 centre per 200,000 women).

There is also no systematic prevention of sexual violence or of domestic violence, within the school curriculum at any level in Croatia. It is left up to the capabilities of individual NGOs to get involved through projects aimed at raising awareness and providing information on the forms of gender based violence. There is also a lack of any systemic approach regarding public or media campaigns. The victims themselves are often blamed and stigmatized. For example, in May 2015 a young woman, a fashion model and a TV personality, was drugged, gang-raped and the whole ordeal was filmed and released to the public. The whole thing was presented as a sex-scandal, something done for purposes of self-promotion and, at least at first, never as an act of sexual violence. Public blaming and shaming was on her, and not on perpetrators who proudly presented to the public their shameful act.

Regarding professions dealing directly with the victims, such as police officers, physicians, psychologists, solicitors etc., there is no higher level education aimed specifically at sexual violence. Any education in this area comes from NGOs, but without structurally planned funding. There is no education regarding the responsibility of reporting. Quite often cases go unreported despite the legal obligation to report. Doctors in particular, either GPs or specialists, should and must be more diligent in reporting even when there is only a suspicion. As far as we know, there has never been any legal action taken against such negligent professionals - doctors, teachers, social workers.

**Recommendations:**

Structural funding for continuous education on methodology of implementation of the Protocol of Conduct in Cases of Sexual Violence for civil servants at relevant institutions (police, prosecutors, judges, doctors, etc.);

State budget allocation for establishment and functioning of adequate number of support centres for victims of sexual violence run by specialized NGOs;

Inclusion of education for prevention of sexual violence into the school curriculum;

Execution of continuous public awareness raising campaigns with the aim of decreasing stigmatization of victims of sexual violence and raising the number of reports.



## **Article 10 - Education**

Various researches demonstrate a lack of awareness on human rights principles and democratic processes, including the gender component, amongst citizens. The Minister of Science, Education and Sports approved the draft National curricular framework in 2011, setting the grounds for the creation of a first national curriculum for civic education. However, the recently issued plan of implementation only envisions a cross-curricular introduction of civic education. This raises serious doubt about its effective implementation, including an appropriate preparation of teachers, an urgent revision of all topics and the possibility to conduct an effective monitoring and evaluation. B.a.B.e. developed, in collaboration with the expert for methodology, a detailed curriculum for the module on gender equality for students from the fifth grade of primary school to fourth grade of secondary school. In spite of recommendations of the Ombudsperson for Gender Equality to introduce the module into the school curriculum and initiate trainings for teachers, as well as measures in the National Policy for Gender Equality<sup>5</sup>, neither the Government Office for Gender Equality nor the Ministry of Science, Education and Sports have taken any concrete action so far. The Ministry of Foreign and European Affairs is at the moment funding the one year project of B.a.B.e. which aims at introducing the module on gender equality in Bosnia and Herzegovina, and the Ministry of Science, Education and Sports did not respond to the request to meet with the delegation from Bosnia and Herzegovina and discuss when and how this module will be incorporated into the school curriculum (!!!!).

### **Recommendations:**

To raise public awareness about the importance of introducing civic education, with the module on gender equality as the integral component, into the formal school system;  
To adopt a strategic plan in cooperation with all relevant stakeholders to incorporate civic education, with the module on gender equality as the integral component, into the formal school system;  
To conduct trainings on civic and citizenship education, with the module on gender equality as the integral component, for teachers and school staff as part of their formal education.

## **Article 12 - Health**

Deterioration of medical care standards hurts both women and men, but reproductive rights have been extremely endangered in the former period. Due to the constant pressure of the Catholic Church and conservative but economically powerful forces, and despite the Law on Health Measures in Exercising the Right to Free Decision on Pregnancy<sup>6</sup>, entire hospitals declare the conscientious objection to performing termination of pregnancy. Albeit conscientious objection has not been regulated by law, nothing has been done to prevent and penalise such acts. As a consequence, especially in remote rural areas, poor women are left

<sup>5</sup> Measures 3.1. and 3.2. of the National Policy for Gender Equality, for the period 2011-2015, available at: <http://www.ured-ravnopravnost.hr/site/hr/nacionalni-dokumenti/politike-planovi-programi-strategije.html>

<sup>6</sup> Law on Health Measures on Exercising the Right to Free Decision on Pregnancy (1978), available at: [http://hr.wikisource.org/wiki/Zakon\\_o\\_zdravstvenim\\_mjerama\\_za\\_ostvarivanje\\_prava\\_na\\_slobodno\\_odlu%C4%8Divanje\\_o\\_ra%C4%91anju\\_djece](http://hr.wikisource.org/wiki/Zakon_o_zdravstvenim_mjerama_za_ostvarivanje_prava_na_slobodno_odlu%C4%8Divanje_o_ra%C4%91anju_djece)

alone and without any support from local or national institutions. We also detected that several pharmacists declared conscientious objection and rejected to sell contraceptives to women in several small towns (!!!). In front of several hospitals which still perform abortions, religious people stand and pray, sometimes for 40 days, trying to persuade women not to terminate unwanted pregnancies. When we compare it with the fact that substantial campaign against sexual education as integral part of health education has been organised throughout Croatia, we may state that reproductive rights of women have been severely violated. Percentage of sexually transmitted diseases has risen among the youth. According to the research, every fifth sexually active 15 year old male did not use any protection during the last intercourse. In 2010 30 % of the youth in Croatia (age 18 to 25) did not use condom during the first sexual act, and only 20% claimed they had used it regularly <sup>7</sup>.

Croatian Government has recently announced that "the morning after pill" may be obtained without doctor's prescription, but immediately afterwards they ordered that women who want to buy it need to fill out on the spot the questionnaire with very personal questions (for example, "When was the last time you had intercourse without protection?"; Did you take the pill previously"; How is your cycle regulated?" etc.). After reading their answers, the pharmacist decides if they may obtain the pill or not. Again, women in small towns and villages, where everyone knows everyone, are the most badly hurt.

All those practices are discriminatory, as they treat women like persons without ability to make informed and proper decisions by themselves. And meanwhile, the state does not implement any concrete measures to support women who are mothers. As we stated before, many women who give birth lose their jobs while taking the parental leave (very few men decide to take it), women are majority among unemployed, etc.

**Recommendations:**

Establishment of strict legal procedures for declaration of the conscientious objection, which may not apply to hospitals, but only to individuals;  
Establishment of regional counselling centres for reproductive rights;  
Immediate annulation of the regulation on the procedure of obtaining the after-morning pill.

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<sup>7</sup> Landripet i sur., Changes in human immunodeficiency virus and sexually transmitted infections-related sexual risk taking among young Croatian adults: 2005 and 2010 population-based surveys, Croatian medical journal, 2011)