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Written Statement submitted by

The Advocates for Human Rights, an NGO in special consultative status

and

Autonomous Women's House Zagreb

Human Rights Committee

The Advocates for Human Rights (“The Advocates”) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates’ Women’s Human Rights Program has published 23 reports on violence against women as a human rights issue, frequently provides consultation and commentary on drafting laws on domestic violence, and trains lawyers, police, prosecutors, and judges to effectively implement new and existing laws on domestic violence. The Women’s Human Rights Program also created training modules on access to justice and drafting legislation on violence against women in all its forms for UN Women’s Virtual Knowledge Centre.

Autonomous Women’s House Zagreb (“AZKZ”) is a feminist, non-governmental and non-profit organization, whose priority is working in civil society. The organization was founded to respond to the need for safe shelter for women and their children exposed to violence – physical, psychological, sexual, economic, or institutional. Its mission is to provide support and help to women who have survived violence and empowerment of women’s position in society.

I. Introduction

1. Domestic violence is a form of discrimination against women and violates women’s human rights. It violates a woman’s right to life, bodily security and integrity, equal protection, and freedom from torture. Domestic violence continues to be a widespread

problem in Croatia. According to research published in 2011, 31 percent of women in Croatia have experienced frequent domestic violence, and 44 percent have experienced it occasionally.¹ In 2013, there were approximately 14,335 domestic violence offenses under the domestic violence law,² and in 2014, there were approximately 13,067 such offenses.³ The incidence of domestic violence is actually higher, however, as this number does not include criminal-level domestic violence offenses.⁴ Femicides are also a serious problem in Croatia; 12 women were killed by their male partners in 2012,⁵ and 11 women were killed by their male partners in 2013.⁶ In the past ten years, 300 women have been murdered by their husbands, partners, or relatives.⁷

II. Overview of Legal Framework

2. Although Croatia has enacted several laws, additional changes need to be made and challenges still exist in their implementation to effectively protect victims and hold perpetrators of domestic violence accountable. Relevant laws discussed in this report include the following:
3. Law on Protection against Domestic Violence (LPDV). The LPDV is a misdemeanor law and defines domestic violence as “any form of physical, mental, sexual or economic violence. . . .”⁸ Under the LPDV, victims can seek six protective measures: 1) psychosocial batterers’ treatment;⁹ 2) addiction treatment for the offender; 3) eviction of the offender from the home; 4) confiscation of firearms; 5) a restraining order; and 6) prohibitions against stalking and harassing the victim.¹⁰ Three of the measures (restraining orders, stalking/harassment prohibition, and eviction) can be requested on an *ex parte* “urgent” basis. The court can impose fines or jail sentences (up to 90 days) on

¹ Women Against Violence Europe (WAVE) 2012 Report, at 66.

² Croatian Ministry of Interior, *Survey of Basic Safety Indicators in 2013 the Republic of Croatia, 2013*. Public Order. Offences Under. 14.

³ Personal Communication from Valentina Andrasek to Rosalyn Park, via email, February 18, 2015 (on file with authors).

⁴ Croatia’s legislation allows the government to respond to domestic violence through either the misdemeanor system (where the domestic violence law is housed) or the criminal system.

⁵ Country Reports on Human Rights Practices: Croatia, U.S. Dep’t of State (2013).

⁶ Personal Communication from Valentina Andrasek to Theresa Dykoschak, via email, Sept. 12, 2014 (on file with authors).

⁷ European Women’s Lobby, Zagreb conference on preventing and combating violence against women and domestic violence, Oct. 28, 2014, <http://womenlobby.org/news/ewl-news/article/zagreb-conference-on-preventing?lang=fr>.

⁸ LPDV, Art. 4.

⁹ The Croatian psychosocial treatment is a counseling program that aims to modify perpetrators’ violent behavior by teaching self-control and conflict resolution skills. The treatment is administered through a six-month program consisting of weekly group meetings. The treatment also calls for victim involvement, on a voluntary basis, designed to inform the victim about the program, gather background information on the perpetrator, and monitor changes in the perpetrator’s behavior. The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), 7.

¹⁰ LPDV, Art. 11(2).

perpetrators,¹¹ in addition to the six protective measures. Importantly, perpetrators can be fined or imprisoned for violations of the protective measures.¹²

4. Criminal Code. In 2011, the Croatian Parliament amended the Criminal Code. Previously, domestic violence was primarily prosecuted under Section 215A, which broadly punished any violent, abusive or particularly insolent conduct that put another family member into a “humiliating position.”¹³ Article 215A was eliminated in 2011, and domestic violence is now mostly prosecuted as bodily injury,¹⁴ threats,¹⁵ or sexual attacks.¹⁶ The 2011 amendments also included two important post-conviction safety measures that offer protection to a victim after a criminal trial is concluded. After a criminal conviction, the court can order a restraining order (up to five years) and eviction of the offender (up to three years) as part of the criminal sentence. These two safety measures are intended to fill a major gap in victim protection after the conclusion of a criminal trial. The 2011 amendments entered into force in January 2013.
5. Family Law. Croatia’s Family Law governs, among other things, marriage and the relations of parents and children.¹⁷ Amendments to the Family Law entered into force on September 1, 2014; however, the Constitutional Court of Croatia has currently suspended this new Family Law because of several challenges to the legislation. Until the Court renders decisions on these challenges, the previous Family Law is in effect. The previous Family Law contains several provisions that diminish victim safety, such as mediation in the divorce process and penalizing victims whose children witness domestic violence.¹⁸ Although the Constitutional Court’s decision is pending, the Ministry for Family and Social Policy has now proposed another new Family Law for adoption, which reportedly contains provisions that are detrimental to victim safety, similar to those provisions currently in effect.
6. Free Legal Aid Act. The Free Legal Aid Act entered into force in 2009, and it was amended in 2011. It provides that victims have the right to legal representation in non-misdemeanor and criminal proceedings.¹⁹ Further amendments were proposed and

¹¹ LPDV, Art. 20.

¹² LPDV, Art. 22(2).

¹³ Criminal Code, Article 215A.

¹⁴ Criminal Code, Art. 117 (bodily injury), Art. 118 (heavy bodily injury), Art. 119 (especially heavy bodily injury), and Art. 120 (heavy bodily injury with a death outcome).

¹⁵ Criminal Code, Art. 139.

¹⁶ Criminal Code, Art. 154; interview with prosecutor, June 10, 2014.

¹⁷ Family Law, Art. 1.

¹⁸ For more information on the harms posed to domestic violence victims by Croatia’s previous Family Law, see The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), 85-88.

¹⁹ Free Legal Aid Act, Art. 5.

adopted in 2013,²⁰ but did not bring any significant improvements for domestic violence victims.

7. State Attorney's Law. Recently, the Croatian Parliament amended the State Attorneys' Law to remove a harmful provision that gave prosecutors discretion to drop a criminal case of domestic violence under certain circumstances not related to whether the defendant had committed the crime.²¹ This is a welcome amendment, and the stakeholders commend the government for removing this dangerous provision.

III. Analysis of Croatia's Compliance with the ICCPR

Reply to Issue No. 10, paras. 97-102 (Articles 6, 7, 9, and 23 of the ICCPR)

8. **Serious problems with consistent and adequate funding for victim shelters compromise their rights under Articles 6, 7, 9 and 23 of the ICCPR.** Reliable access to shelters is a critical part of ensuring that domestic violence victims and their children can enjoy their rights to life, freedom from torture, liberty and security of person, and protection of the family. In its 2012 List of Issues, the Human Rights Committee requested updated information on support services for victims of domestic violence, including an explanation for the shortage of funding faced by shelters.²² Paragraphs 97 to 102 of the State Party's report address shelter funding.²³ In its response, Croatia indicated that there are 10 state homes, also referred to as safehouses, that have contracted with the Ministry of Social Policy and Youth and provide shelter to victims.²⁴ Croatia further indicated that there were seven autonomous women's shelters that received support from the Ministry of Social Policy and Youth.²⁵ The State Party's report shows a troubling disparity between the number of clients served and the funding received by both types of entities. The autonomous shelters served 2.76 times as many clients as the state-contracted safehouses in 2010, yet received only 65% of the funding that the safehouses

²⁰ "Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure, Third periodic reports of States parties due in October 2013: Croatia," CCPR/C/HRV/3, 25 February 2014, ¶¶17-19.

²¹ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 39. Under Article 62 of the State Attorney's Law of 2009, the prosecutor could drop the case if he or she believed that instituting proceedings would not be efficient due to the nature of the offense, the circumstances under which it was committed, the personal characteristics of the perpetrator and injured party, and the nature of their relationship. *Id.*

²² "List of issues prior to the submission of the third periodic report of Croatia (CCPR/C/HRV/3) adopted by the Human Rights Committee at its 105th Session, 9-27 July 2012," CCPR/C/HRV/Q/3, 21 August 2012, ¶10.

²³ Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure Third periodic reports of States parties due in 2013: Croatia, Feb., 25, 2014, U.N. Doc. CCPR/C/HRV/3 (2014).

²⁴ "Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure, Third periodic reports of States parties due in October 2013: Croatia," CCPR/C/HRV/3, 25 February 2014, ¶98.

²⁵ *Ibid.*, ¶99.

received. This funding disparity continued the following year in 2011, when autonomous shelters served 2.3 times as many clients as the state–contracted safehouses, but received only half of the funding the safehouses received.²⁶ The State Party did not provide an explanation on why it provides far less funding to shelters that serve more than twice as many clients as safehouses.

9. **Funding for victim services needs to be established on a long-term basis.** The Council of Europe Taskforce Recommendations require 428 shelter spaces for victims of domestic violence.²⁷ Croatian shelters and state, church and city homes provide 267 spaces;²⁸ thus, space for victims and their children is limited and keeping the shelters and state homes operational is critical. Of particular concern are the delays in government funding – sometimes by months at a time – and shortfalls in funding from what was promised. In the first half of 2011, seven autonomous women’s shelters reached a crisis point, when the Ministry of Family, Intergenerational Solidarity and Veterans’ Affairs deferred automatic renewal of its existing contracts with those shelters.²⁹
10. Changes made in 2013 by the Ministry for Social Policy and Youth have resulted in some improvements, and they are now providing three-year contracts in an effort to allow autonomous shelters to operate with greater financial security. In addition to funding from the Ministry, the seven autonomous shelters receive funding from the respective counties and cities, and also fund an additional portion of their operations on their own. However, the Ministry only provides for up to 30 percent of funding. Cities and counties are slated to provide 60 percent of funding, but they provide much less. Although the three-year contracts are a positive step, they are not a permanent secure solution. Instead, longer-term funding should be established at the national, county, and city level because of the importance in ensuring the continuing operation and expansion of shelters. In addition, the Ministry and responsible parties at the county and city level should communicate with NGOs to ensure that funding and budget rules are compatible with the present realities of running a shelter and recognize the autonomy of the shelters and expertise of the NGOs.³⁰
11. Although Ministry funding is available for shelters throughout 2015, funding remains uncertain for future years once this three-year financing runs out. The Ministry has offered shelters per-bed based funding and has advised the shelters to apply for EU financing. Most shelters already rely on EU funds, however, and such funding is not issued for direct work with women and children. Moreover, Zagreb County, which is required to fund two of the seven autonomous women’s shelters, abruptly withdrew its

²⁶ State Party Report, paras. 100-01.

²⁷ “Country Report: Croatia,” *Women Against Violence Europe*, 2014, at 65.

²⁸ *Ibid.*

²⁹ AZKZ, *Securing the Shelters: Activities Update*, September 28, 2011 (summary, on file with The Advocates)

³⁰ Email from AZKZ to The Advocates, Feb. 13, 2013 (on file with authors).

financial support for 2015. It has instead published a call for proposals for projects dealing with domestic violence and intends to finance these projects using the same funds previously provided to the two shelters. In other words, the two shelters in Zagreb have lost critical funding from Zagreb County—despite a written contract between the shelters, Zagreb County, the City of Zagreb and the Ministry—which guarantees funding for the 2011-2016 period of the National Strategy for Combating Violence in the Family.³¹

Reply to Issue No. 10, para. 107 (Articles 2, 6, 7, 9, and 26 of the ICCPR)

12. Paragraph 107 of the State Party’s report notes that Croatia adopted a new Criminal Code in 2013. As outlined below, the new Criminal Code does not adequately protect the rights of domestic violence victims under Articles 2, 6, 7, 9, and 26 of the ICCPR. Serious gaps in implementation of the Criminal Code have created barriers to effective prosecution of domestic violence and deny victims full enjoyment of their rights to life, freedom from torture, liberty and security of person, and equal protection of the law.

13. **The new Criminal Code does not effectively hold offenders accountable for long-term domestic violence and coercive control (psychological) domestic violence.** The former Criminal Code contained a specific provision on domestic violence (Article 215A), which broadly prohibited “violent, abusive or particularly insolent conduct.” The new Criminal Code no longer contains a specific domestic violence offense, and prosecutors must instead rely on bodily injury and threat provisions. But in practice, many forms of domestic violence do not qualify as bodily injury or threats under the Criminal Code in Croatia.³² Because it is injury-focused, Croatia’s new Criminal Code prosecutes domestic violence on a single incident basis, when in reality, research shows domestic violence is actually a continuing pattern of coercive control in which offenders use physical violence, intimidation, and isolation.³³ Long-term domestic violence for which a victim may not have proof of her injuries must now be handled as a misdemeanor offense, as must acts of coercive control that do not rise to the level of a threat to bodily integrity or life. In other words, the new Criminal Code does not recognize most domestic violence as a criminal level offense, thus relegating these offenses to the misdemeanor system.³⁴

14. **Medical certificate requirements are preventing prosecution of domestic violence offenses.** Since 2013, prosecutors typically now prosecute domestic violence as bodily

³¹ Personal Communication from Valentina Andrasek to Rosalyn Park, via email, Feb. 18, 2015 (on file with authors).

³² Interview with lawyer, June 4, 2014.

³³ Evan Stark, “Re-presenting Battered Women: Coercive Control and the Defense of Liberty,” Prepared for Violence Against Women: Complex Realities and New Issues in a Changing World, Les Presses de l’Université du Québec (2012), at 7.

³⁴ Interview with Lawyer, June 4, 2014.

injury or threats because Article 215A (violent conduct within a family) was removed from the Criminal Code. Article 215A did not require qualification of the degree of injuries for prosecution,³⁵ and those crimes could be prosecuted based on the testimony of the victim or witnesses. In contrast, instead of relying on police reports or testimony regarding injuries, prosecutors now require medical certificates to pursue criminal charges for bodily injury.³⁶ Without a medical certificate, prosecutors are not charging perpetrators with these crimes. Yet, victims may face several barriers to obtaining a medical certificate. The perpetrator may prohibit the victim from visiting an emergency room or other doctor to obtain the certificate while her injuries are still visible.³⁷ The perpetrator may also be present during the examination, preventing open communication between the victim and the doctor or the victim's request for a medical certificate. And although all doctors are authorized to provide medical certificates, doctors may be hesitant to provide such documentation for fear that the perpetrators will retaliate against them.³⁸ As a result of the medical certificate requirements, offenders are not being held accountable and prosecuted for domestic violence. This sends a message to both perpetrators and society that the government condones violent behavior and allows perpetrators to act with impunity.

15. Additional precautionary measures are needed to protect victims during criminal trials. The Criminal Procedure Code currently provides for precautionary measures that the court may order before and during criminal proceedings, including prohibition from approaching certain persons and from establishing or maintaining contacts with particular persons.³⁹ The courts recognize the purpose of such precautionary measures as a way to ensure the defendant's presence at trial, but the intended purpose should be expanded to include protecting *victims* during criminal proceedings until a final court decision when safety measures can be issued.

16. The use of precautionary measures before and during criminal trials is especially important now, in light of the *Maresti v. Croatia* decision that precludes a victim from obtaining misdemeanor LPDV protective measures after a criminal conviction.⁴⁰ Although criminal charges and convictions may be appropriate for the perpetrator's actions, if courts are not properly imposing precautionary measures to protect the victim during the pending criminal proceedings, the victim is left exposed and unprotected from

³⁵ "A family member who by his or her violent, abusive or particularly insolent conduct puts another member of the family into a humiliating position shall be punished by imprisonment for three months to three years." Criminal Code, Art. 215A (Violent Conduct Within a Family).

³⁶ The medical certificate is used to qualify the level of injury for purposes of criminal prosecution (bodily injury, heavy bodily injury, especially heavy bodily injury). Criminal Code, Arts. 117-119.

³⁷ Interview with lawyer, June 9, 2014.

³⁸ Interview with NGO, June 2, 2014.

³⁹ Criminal Procedure Code, Art. 98(2)(1 – 8).

⁴⁰ The victim is precluded from availing herself of both systems' remedies for the same act of violence. If two or more acts of violence were to occur, they could be charged separately under the misdemeanor and criminal systems.

her perpetrator. Such a result violates Croatia's obligations to hold perpetrators accountable and protect victims during criminal proceedings.

17. The removal of Article 215A (Violent Conduct Within a Family) under the new Criminal Code has resulted in domestic violence perpetrators escaping effective prosecution. For cases that are pending when a new law enters into effect, Croatia's legal system is obliged to use the criminal law provision with the lesser punishment.⁴¹ Yet, there is no parallel crime in the new Criminal Code after the removal of Article 215A.⁴² This creates a loophole for Article 215A cases that were initiated prior to the new Criminal Code and were still pending when the new code entered into force. As a result, prosecutors have reduced or even dropped charges for these domestic violence offenders. The dismissal of these charges without holding these offenders accountable violates Croatia's international obligations. While Article 215A's vague language presented problems for holding offenders accountable, its removal without an appropriate replacement provision has presented new problems. Within a three-month period of time, NGOs identified several pending criminal cases in which prosecutors dropped criminal charges and would not proceed under the new Criminal Code.⁴³ For example, Autonomous Women's House Zagreb reported how one husband abused his wife for 15 years. He threatened to kill her and committed severe physical violence against her, including slapping, kicking, and suffocating her, slamming her head against the floor, throwing objects (including knives) at her, and holding a knife to her throat. Charges were brought against the husband under Article 215A, but once the new Criminal Code entered into force, the Municipal State Attorney in Zagreb dismissed the charges. There have been no further actions brought against the offender for his domestic violence.⁴⁴ Autonomous Women's House Zagreb brought this and 14 other cases to the attention of the Croatian Ministry of Justice,⁴⁵ but as of the time of this submission, the government has not taken concrete action to remedy the problem.

18. Judges need immediate training on post-conviction safety measures under the Criminal Code and on precautionary measures under the Criminal Procedure Code. Two new safety measures under the Criminal Code – restraining orders⁴⁶ and evictions⁴⁷ - are important measures to protect victims after a criminal trial. This was a commendable advance made by Croatia to protect victims after a criminal trial and fill a major gap; however, between January 2013 and June 2014, only one eviction safety measure had been issued since the law entered into force, and even that was not a final

⁴¹ Criminal Code, Art. 3.

⁴² Email from Valentina Andrasek to Rose Park, Feb. 13, 2013 (on file with authors).

⁴³ Information from NGO (on file with authors).

⁴⁴ Fifteen Case Profiles, Autonomous Women's House Zagreb (on file with authors) (2014).

⁴⁵ Interview with NGO, June 2, 2014.

⁴⁶ Criminal Code, Art. 73.

⁴⁷ Criminal Code, Art. 74.

ruling as of June 2014.⁴⁸ Indeed, courts have denied requests for safety measures from attorneys representing victims, incorrectly stating that they cannot give those measures for the victim but only to ensure the perpetrator's presence in court.⁴⁹ This demonstrates judicial confusion on the measures available and may explain why so few safety measures have been issued by criminal judges. As a result of judges not understanding these measures, victims are denied needed protections to which they are entitled under the law. Accordingly, Croatia should be urged to provide immediate training to criminal judges on the use and availability of both safety measures under the Criminal Code, which can protect victims after the perpetrator is convicted, and the precautionary measures under the Criminal Procedure Code discussed in paragraphs 13 and 14, which can be applied during the trial.

19. **Additional post-conviction safety measures are needed under the Criminal Code to prevent further violence, specifically stalking and harassment.** Although Croatia's recent amendments to the Criminal Code included the addition of post-conviction safety measures for eviction and restraining orders, offenders have been known to skirt the limits of restraining orders to remain a certain distance away from persons or locations.⁵⁰ Police often disregarded an offender's behavior when the offender is "passing by" or merely in the vicinity's outskirts by happenstance or when his transgressions into a prohibited area or intentions are unclear. For example, one victim who left a shelter and returned to her apartment saw her perpetrator driving through her street, despite a restraining order. Police refused to enforce the restraining order because "he has a right to drive through the street." In another case, a perpetrator followed his child from school and found the victim at a shelter. When reported to the police, the perpetrator defended himself by saying that he accidentally found the shelter. The police did not respond, despite a restraining order against him, because there was no law against walking in the street.⁵¹ In such cases, safety measures against harassment or stalking would serve to strengthen protection for victims and prevent further abuse by perpetrators.

Reply to Issue No. 11, paras. 108-116 (Articles 2, 6, 7, 9, 16 of the ICCPR)

20. Paragraphs 108 to 116 of the State Party's report describe the LPDV's remedies available to a victim of domestic violence. These remedies, particularly a restraining order, eviction, and prohibition against stalking and harassment, provide important means of protecting victim safety and the stakeholder. However, the current language of the LPDV and its implementation prevents the full enjoyment of the rights to life, freedom from torture, liberty and security of person, and an effective remedy.

⁴⁸ Interview with Ministry of Interior, June 2, 2014.

⁴⁹ Interview with Lawyer, June 4, 2014.

⁵⁰ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 35.

⁵¹ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 35.

21. **The LPDV does not protect victims of domestic violence in an intimate partner relationship**, in violation of Article 16 of the ICCPR. Currently, the scope of the LPDV's protection does not encompass intimate partners who do not have children in common or have not lived together for at least three years. Thus, many intimate or formerly intimate partners do not have access to the LPDV's remedies and protections, and if they want to seek legal protection against domestic violence, they must pursue it as a private claim. This places the entire cost of the court proceedings on the victim, and an outcome in her favor is by no means certain.⁵² Thus, those persons in intimate partner relationships do not fully enjoy their right to recognition as a person before the law—in this case, the LPDV—and who can fully enjoy the protections it offers.
22. The misdemeanor (including the LPDV) and criminal laws are mutually exclusive in Croatia⁵³ and limit the remedies available for a victim and the accountability for a perpetrator. As a result, **a victim of domestic violence cannot obtain remedies or protection under both the misdemeanor and criminal systems**, and it is usually the police who determine whether they will apply the LPDV or Criminal Code after the victim reports the violence. Under the misdemeanor system, the two means of protection a victim can obtain include: 1) the Misdemeanor Act which has limited precaution measures to protect her during the proceedings, and; 2) the LPDV which provides immediate protective measures to protect her on a long-term basis before and after the misdemeanor proceedings. Under the criminal system, the Criminal Code includes limited precautionary measures to protect her during the proceedings and two post-conviction safety measures for protection. The Criminal Code's protections are not as quick, strong or encompassing as the LPDV protections, but they do impose higher sanctions for the perpetrator that more accurately reflect the seriousness of the offense.
23. **Systems actors prioritize perpetrator treatments over remedies that protect victim safety when requesting and granting protective measures under the LPDV.** Police file for protective measures under the LPDV on behalf of victims in up to 90 percent of applications.⁵⁴ However, the measures requested by the police and granted by the courts overwhelmingly focus on perpetrator treatments – e.g., psychosocial or addiction treatment – and it has been reported that the police and judiciary are reluctant to impose and enforce protective measures that would protect victims, such as restraining orders.⁵⁵ As a result, victims are left unprotected during a dangerous period of time when they are leaving their abusers. This inclination toward batterers' programs is problematic both because of questions regarding their efficacy as well as the lack of a monitoring mechanism to ensure the offender's compliance, as described below in paragraph 28.

⁵² The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 10.

⁵³ *Maresti v. Croatia*, Euro. Ct. H. Rts. (2009).

⁵⁴ Interview with Misdemeanor Judges, June 4, 2013 (police are the ones issuing and filing for the measure in 90% of cases).

⁵⁵ "Croatia 2013 Human Rights Report," *U.S. Dep't of State*, 16.

Moreover, the tendency to favor and even order batterers' treatment in lieu of other protective measures or jail can compromise victim safety. A misdemeanor judge recently admitted that she does not order eviction and restraining orders, as she believes psychosocial treatment to be adequate for perpetrators "who do not yet deserve eviction."⁵⁶ Yet, police first responders state that evictions and restraining orders are actually the most effective protective measures.⁵⁷

24. Violations of protective measures and punishments under the LPDV are not adequately enforced, in violation of Article 2(3)(c) of the ICCPR. Best practices show that the violation of a protection order should be criminalized.⁵⁸ The LPDV punishes the violation of a protective measure with a fine of at least 3,000 Kunas or a prison sentence of at least 10 days.⁵⁹ Yet in practice, reports indicate that the police and courts are not always enforcing these requirements. For example, one victim received a protective measure against her husband. He violated the order, which should result in jail time, but the police refused to do anything because there was no room in jail to keep him.⁶⁰ The same victim also reported that the husband only served 10 days of a 25-day jail sentence because of lack of space.⁶¹ Croatia should be urged to ensure the punishment of violations of protective measures and enforce punishments of offenders under the LPDV.

25. The LPDV's current language presents a barrier to victims seeking urgent protective measures in emergencies in violation of Article 2(3) of the ICCPR. While the State Party explains that urgent protective measures can be issued to eliminate a "direct threat to life of the victim of violence or other family members," (para. 16), the standard of "direct threat to life" creates a serious barrier to obtaining these measures.⁶² Lawyers reported that they encounter difficulties obtaining an emergency protection order under this standard, because the law requires circumstances that directly endanger life. Lawyers further explained that the LPDV's language requiring "immediate life danger" more closely reflects a criminal rather than a misdemeanor standard. A lawyer illustrated this in a case where the abuser harassed the victim via text messages several times, with messages such as, "I'm following you. I have an eye on you." The judge did not consider these communications a personal threat because there was no express statement that he would kill her, and he declined to issue the order. Judges have denied

⁵⁶ Interview with Misdemeanor Judge, June 4, 2014. The judge further clarified that such a perpetrator would include someone who committed domestic violence one or two times; she explained, "In every marriage, we have fights or quarrels, and these can then turn to domestic violence, and these are the ones that are not hard core [for purposes of eviction or restraining orders]." Id.

⁵⁷ Interview with Police, June 3, 2014.

⁵⁸ UN Women, "Overview and protection orders," <http://www.endvawnow.org/en/articles/600-generalites-et-ordonnances-de-protection.html>.

⁵⁹ LPDV, Art. 22.

⁶⁰ Email from AZKZ to The Advocates, July 1, 2014 (on file with The Advocates).

⁶¹ Email from AZKZ to The Advocates, July 1, 2014 (on file with The Advocates).

⁶² Para. 116, State Party Report. Article 19(2) and (3) of the LPDV state that urgent protective measures shall be issued to eliminate a "direct threat to that person's life or other family members."

this lawyer urgent protective measures in the nine applications she has filed because the victim did not prove her life was in that high level of danger. This lawyer is not alone in her experience, and as of 2012, none of her colleagues in the city have received such protections for their clients.⁶³

26. In regard to the urgent protective measures described above, the State Party also emphasizes a “court must reach a decision with regard to the above-stated proposal within 24 hours at the latest.”⁶⁴ Although the LPDV requires issuance of urgent protective measures within 24 hours, its failure to mandate 24-hour judicial availability diminishes the effective implementation of this provision. **There have been numerous reports of judges waiting two to three days to issue urgent protective measures instead of the within the 24-hour deadline.** Judicial bodies are also required to organize the misdemeanor court operations so that they can function on weekends and holidays.⁶⁵ Some courts do comply with this requirement. But others do not, thus forcing the victim to wait without protection until the court reopens. One shelter client feared for her life because her husband was released from jail. She applied for a protective order during the hearing releasing him from detention, but the judge did not issue it at that time. Because it was a Friday, the client hoped to have it by Monday. In the meantime, two shelter workers made a safety plan to meet her after work and accompany her back to the shelter.⁶⁶

Reply to Issue No. 11, para. 111 (Article 2(3), 6, 7, and 9 of the ICCPR)

27. Paragraph 111 of the State Party’s report describes the LPDV’s remedy of psychosocial treatment. As outlined below, however, Croatia’s psychosocial treatment program does not guarantee an effective remedy to victims under Article 2(3) of the ICCPR. It further risks violations of the women’s rights under Articles 6, 7, and 9 when psychosocial treatment programs are prioritized over or in lieu of remedies that protect victims’ safety, i.e. restraining orders, eviction, and a prohibition against stalking and harassment.
28. **Many interviewees questioned the effectiveness of psychosocial treatment programs,** in part because there is no systematic monitoring and reporting system if the offender fails to attend, and there is no evaluation to gauge its success aside from personal

⁶³ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), at 61.

⁶⁴ State Party Report, para. 116.

⁶⁵ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), at 47.

⁶⁶ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), at 47.

observations about recidivism.⁶⁷ One NGO described how their client's abuser was ordered into both psychosocial and addiction treatment, but no one questioned his failure to attend either program. Eventually, the doctor and psychosocial treatment administrator informed the court that he never attended.⁶⁸ **There were also concerns about the quality of such programs**, particularly where women victims are required to undergo family therapy with the offender or are blamed for provoking the violence.⁶⁹

29. **Judges have continued to order psychosocial treatment measures even though such programs are unavailable in many locations due to lack of funding.**⁷⁰ The absence of funding means lengthy delays before the perpetrator even begins treatment, and misdemeanor judges described how clinics have informed them that they initiate contact with the perpetrator several months after the ruling ordering the treatment.⁷¹ Moreover, batterers' treatment programs run the risk of diverting much needed and scarce resources away from services for the victim, such as shelters. As described above, shelters in Croatia already face funding challenges, and the potential diversion of funds exacerbates this problem.

Reply to Issue No. 11, paras. 119-122 (Article 2, 6, 7, 9 of the ICCPR)

30. Paragraphs 119 to 122 of the State Party's report describe the Misdemeanor Act's precautionary measures. The Misdemeanor Act currently provides for six different precaution measures that the court may order before and during misdemeanor proceedings, including banning visits to a certain location or area, banning coming near to a person, and banning maintaining or establishing connections with a particular person.⁷² In addition, police can issue precaution measures for up to a period of eight days where there is a probability of a misdemeanor having been committed.⁷³ These measures can protect victims because they can keep the offender away from the victim, can be issued immediately by the police, and are not stayed pending appeals.⁷⁴
31. **The Misdemeanor Act precaution measures are aimed at controlling the defendant rather than protecting victims.** Similar to the Criminal Code's precautionary measures,

⁶⁷ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 54-57.

⁶⁸ Interview with NGO, June 2, 2014.

⁶⁹ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 4, 54-57.

⁷⁰ Interview with Misdemeanor Judges, June 4, 2014; Interview with NGO, June 2, 2014.

⁷¹ Interview with Misdemeanor Judges, June 4, 2014.

⁷² Misdemeanor Act, Art. 130(2).

⁷³ Misdemeanor Act, Art. 130(6).

⁷⁴ Misdemeanor Act, Art. 130(8).

misdemeanor precaution measures are not typically intended or used to protect victims.⁷⁵ Instead, the courts recognize the purpose of such precaution measures as a way to ensure the defendant's presence in court and prevent the commission of new misdemeanors.⁷⁶ Training is needed for police officers and judges on these measures, and additional measures including a restraining order; prohibitions against stalking, harassment, and communication; and eviction are needed to strengthen their capacity to protect victims.

Reply to Issue No. 11, para. 117 (Articles 2, 6, 7, and 9 of the ICCPR)

32. An appeal by the perpetrator halts the implementation of LPDV protective measures by placing the victim at risk of further violence. The immediate enforcement of protective measures is crucial to victim safety because these measures are ordered at a time when the victim has chosen to separate from her offender--which is when her risk of lethality and further violence is at its greatest. The Human Rights Committee requested clarification on whether the filing of an appeal of protective measures under the LPDV by a perpetrator automatically stayed or suspended execution of all protective measures, including restraining orders.⁷⁷ Croatia's response was inconclusive, stating "[t]he appeal does not postpone the enforcement of the decision, unless determined otherwise by the Act on Misdemeanors, pursuant to the above, seeing as the appeal postpones the enforcement."⁷⁸ Unlike precautionary measures under the Criminal Procedure Code or precaution measures under the Misdemeanor Act, which are not stayed pending appeal,⁷⁹ the Misdemeanor Act currently states that an "appeal timely submitted by the person empowered prolongs the execution of the verdict."⁸⁰ In other words, the Misdemeanor Act states that an appeal postpones enforcement of LPDV protective measures.

Reply to Issue No. 11, para. 123 (Article 9 of the ICCPR)

33. Dual arrests and convictions of both the perpetrator and the victim remain prevalent throughout Croatia in violation of Article 9(1) of the ICCPR. The effects of these charges and convictions on victim safety and offender accountability are devastating; a victim who reports domestic violence only to be arrested and convicted

⁷⁵ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 49. Interview with High Misdemeanor Court, June 5, 2014.

⁷⁶ Misdemeanor Act, Art. 130(1).

⁷⁷ "List of issues prior to the submission of the third periodic report of Croatia (CCPR/C/HRV/3) adopted by the Human Rights Committee at its 105th Session, 9-27 July 2012," CCPR/C/HRV/Q/3, 21 August 2012, ¶11.

⁷⁸ "Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure, Third periodic reports of States parties due in October 2013: Croatia," CCPR/C/HRV/3, 25 February 2014, ¶117.

⁷⁹ Criminal Procedure Code, Art. 98(7); Misdemeanor Act, Art. 130(8).

⁸⁰ Misdemeanor Act, Art. 191 (3).

will never seek help again from the State. The Ombudsperson for Gender Equality expressed concern on the number of women arrested and charged as violent perpetrators – 43.2 percent;⁸¹ yet in the majority of cases, men are the perpetrators of violent behavior in the family.⁸² Dual arrests and charges are the result of several factors:

1) Croatia’s domestic violence law classifies psychological and economic violence on par with physical violence, thus holding a victim who makes verbal insults or spends too much money as culpable as a physical abuser. Police officers insist that name-calling and physical violence are both forms of domestic violence under the LPDV and even admitted verbal insults are the most common scenario for dual arrests.⁸³ Even if the woman uses verbal name-calling and the man uses physical violence, the police explained they will arrest both parties to bring before a judge.⁸⁴ Yet, the misdemeanor judges who preside over these charges are also poorly equipped to identify the predominant aggressor and have found victims guilty under the LPDV.⁸⁵ One lawyer opined that dual arrests were not the only problem—dual convictions for both victim and perpetrator handed down by misdemeanor judges are also a serious concern.⁸⁶

2) Police do not conduct a predominant aggressor assessment to identify the physically violent party and instead defer that evaluation to judges. Police acknowledged they do not determine who is truthful when both parties give conflicting accounts of what happened but instead arrest and detain both parties.⁸⁷ An officer explained that, “[w]e don’t make those calls. It is for the court to decide who is telling lies.”⁸⁸ In contrast, misdemeanor judges recognize the need for police officers to play a bigger role in identifying the primary aggressor and receive additional education.⁸⁹

3) Police are not trained in identifying injuries inflicted out of self-defense and instead defer that evaluation to doctors. Police confirmed that they do not decide whether injuries are defensive but only report what the parties have stated and their observations.⁹⁰ Yet, the only way a medical professional can document self-defense injuries is if the perpetrator goes to the hospital or signs a statement that his injuries were sustained by the victim defending herself.⁹¹ An ER surgeon who herself sees patients with these injuries recognized the need for police to play a larger role in documenting injuries.⁹²

⁸¹ Interview with Ombudsperson for Gender Equality, June 3, 2014; Ombudsperson for Gender Equality, “Annual Report 2013,” Zagreb, March 2014, at 25.

⁸² Ombudsperson for Gender Equality, “Annual Report 2013,” Zagreb, March 2014, at 25.

⁸³ Interview with Police, June 3, 2014.

⁸⁴ Interview with Police, June 3, 2014; see also Interview with Ministry of the Interior, June 2, 2014 (explaining that it is not up to the police to determine who is the violent party but must bring both in to the court to decide).

⁸⁵ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012).

⁸⁶ Interview with Lawyer, June 9, 2014.

⁸⁷ Interview with Police, June 3, 2014.

⁸⁸ Interview with Police, June 3, 2014.

⁸⁹ Interview with Misdemeanor Judges, June 4, 2014.

⁹⁰ Interview with Police, June 3, 2014.

⁹¹ Interview with ER Doctor, June 4, 2014.

⁹² Interview with ER Surgeon, June 4, 2014.

4) Harmful attitudes and stereotypes by systems actors contribute to dual arrests. One lawyer described how her client, who had been arguing with her husband, called the police about his domestic abuse. When the police arrived, they remarked in front of their children, “that it would be the best if all of them [the mother and father] were in prison.”⁹³

Reply to Issue No. 11, paras. 131-132 (Articles 2, 6, 7, 9 of the ICCPR)

34. The State Party describes the inter-ministerial agreement that was signed between ministries to promote cooperation on violence against women. The stakeholders commend this initiative to promote greater interagency collaboration, but note concerns including the low to non-existent involvement of autonomous shelters and women’s NGOs. Interagency cooperation with the probation system, described below in paragraph 38, must be strengthened to adequately protect victims and hold offenders accountable for domestic violence. Probation officers acknowledged good cooperation with police; although they lack a shared database with police, probation officers share information on offenders who check in at their office directly with law enforcement.⁹⁴ Strong cooperation with other sectors, such as the courts and prisons, is lacking, however. Probation officers lamented that the courts’ use of probation has decreased recently,⁹⁵ and one expert added that judges do not request reports from probation officers as often as they should.⁹⁶ Information that probation officers receive from prisons and executing judges⁹⁷ is inadequate and only comprises a request to check on an offender and his name. Such requests from prison and execution judges do not provide probation with the critical information they need, such as data about the offense, what probation should be checking for, and major risks to watch out for.⁹⁸ Perhaps of greatest concern is that the probation system is not working with the misdemeanor courts, where their oversight is urgently needed to oversee compliance with protective measures, especially perpetrator treatment.⁹⁹ A lawyer explained, “[f]or serious criminal acts, the probation system works, but for domestic violence, no. Since probation [has existed], we haven’t had any client who has come here and said, “[m]y husband is in the probation system.”¹⁰⁰ Finally, the Ministry of Social Policy and Youth acknowledged they are not working with the probation system, because the LPDV and psychosocial treatment are independent from the probation system, which functions with prisons. The ministry official recognized the

⁹³ Interview with Lawyer, June 4, 2014.

⁹⁴ Interview with Probation, June 4, 2014.

⁹⁵ Interview with Probation, June 4, 2014.

⁹⁶ Interview with Professor, June 10, 2014.

⁹⁷ An executing judge is a county court judge in charge of carrying out sentences of defendants once a conviction becomes final.

⁹⁸ Interview with Professor, June 10, 2014.

⁹⁹ Interview with Misdemeanor Judges, June 4, 2014; Interview with Professor, June 10, 2014.

¹⁰⁰ Interview with NGO, June 2, 2014.

need to merge these efforts and amend the probation law to treat it as one system in the future.¹⁰¹

Other Issues under the ICCPR (Articles 2, 6, 7, 9, 17, 23 of the ICCPR)

35. The LPDV's mandatory reporting requirement violates Article 17(1) of the ICCPR on arbitrary interference with privacy and risks violating a victim's rights under Articles 6, 7, and 9. **Mandatory reporting compromises victim safety and autonomy.** The LPDV requires that health care workers, social welfare employees, educational and religious workers, humanitarian organizations, and civil society organizations working in the scope of children and families report acts of domestic violence to the police or State Attorney's office.¹⁰² Failure to report such acts can result in a fine of 3,000 kunas (approximately 400 Euros).¹⁰³ This requirement places NGOs and other responders in the difficult position of choosing between breaching client confidentiality by reporting domestic violence or facing a potential fine. In domestic violence cases, identifying information should never be disclosed without the victim's fully informed consent. One of the most dangerous times for many victims is when they separate from their abusers. It is important for an adult female victim of domestic violence to make her own decision to report the domestic violence because she is the best judge of the potential danger her abuser poses to her.¹⁰⁴ One doctor opined that her requirement to report domestic violence to police was poor practice, because it could escalate the violence and also drive the woman to change doctors.¹⁰⁵ The doctor also expressed concern over mandatory reporting requirements without proper training on domestic violence for doctors.¹⁰⁶
36. **Free legal services are difficult to obtain and hinder victims' right to seek an effective remedy under Article 2(3).** Despite the improvements Croatia recently made to the Free Legal Aid Act, the process to request free legal assistance is complicated.¹⁰⁷ This operates as a bar to victims of domestic violence who would otherwise qualify for free legal representation to, for example, initiate their own criminal or misdemeanor matters that are not pursued by prosecutors or file divorce proceedings.¹⁰⁸ Victims could also use free legal aid to request protective measures under the LPDV. One lawyer explained the benefits her clients receive by her free legal representation: "When victims of violence have a lawyer, it is obvious their situation is different because [the lawyer]

¹⁰¹ Interview with MSPY, June 5, 2014.

¹⁰² LPDV, Article 8.

¹⁰³ LPDV, Article 21.

¹⁰⁴ See The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).

¹⁰⁵ Interview with General Practitioner Doctor, June 10, 2014.

¹⁰⁶ Interview with General Practitioner Doctor, June 10, 2014.

¹⁰⁷ Interview with NGO, June 2, 2014.

¹⁰⁸ Ibid.

knows what to say to the institutions. So for my clients, there is no harm.”¹⁰⁹ Based on a review of protective measures under the LPDV conducted by the Gender Equality Ombudswoman, victims initiated only 2 percent of applications for protective measures.¹¹⁰ This reflected the need not only to support victims with free legal aid in misdemeanor and court proceedings, but raise awareness of their rights and provide quick and effective legal aid.¹¹¹

37. Croatia’s new Family Law places victims and their children at risk and violates their rights under Articles 23(1) and (4). The new Family Law, entered into force September 1, 2014, is currently under review by the Constitutional Court and has been temporarily suspended. **Upon a decision by the Constitutional Court, the Parliament should amend the new Family Law to ensure it does not punish victims and place them in danger.** The Croatian Parliament should be urged to make amendments, pending the Constitutional Court decision, and ensure that dangerous provisions in the new Family Law are removed, including the following:

- a. **Mandatory mediation in divorce cases.** Even though the amendments indicate that mediation will not be mandatory in cases of domestic violence,¹¹² if there are no pending claims of domestic violence or victims are not properly screened, this could result in the victim still being compelled to participate in mediation against her perpetrator. Staff at Centres for Social Welfare, who routinely conduct mediations, do not usually screen clients for domestic violence or inform victims of their right to decline mediation in the presence of their perpetrator.¹¹³ Thus, many cases of domestic violence may go undetected or still be routed through mediation. Although the goal of mediation is to bypass an overscheduled judicial system with a quick alternative, the assumptions underlying the use of mediation do not apply in domestic violence. Mediation assumes that both parties are equal, yet an abuser holds tremendous power over a victim. This imbalance of power between the parties cannot be remedied despite the skills of the mediator. Mediation in the divorce context is usually geared toward reconciling the family; thus, in situations of domestic violence, mediation by itself is problematic by encouraging the victim of violence to remain with her perpetrator.
- b. **Prohibition on one parent leaving a city without the approval of another parent.** This provision is a safety issue for victims of domestic violence; if she is unable to go to a shelter in another city for her safety or because the shelter in her

¹⁰⁹ Interview with Lawyer, June 4, 2014.

¹¹⁰ Interview with Gender Equality Ombudswoman, June 3, 2014.

¹¹¹ Interview with Gender Equality Ombudswoman, June 3, 2014.

¹¹² Family Law, Art. 332(1).

¹¹³ “Implementation of Croatia’s Domestic Violence Legislation,” The Advocates for Human Rights, *et al.*, 2012, 78.

city is not able to provide her with a space (or does not exist), this would require victims to remain in dangerous situations.¹¹⁴ With only 18 shelters in the entire country, a victim may have no choice but to seek refuge in another city that can shelter her.

- c. **The new Family Law asks that the parents cooperate in raising the children, with serious consequences for a parent who refuses to cooperate.** For example, if the parents do not show sufficient willingness to cooperate, the CSW can propose special measures (Art 143), which range from oversight to removal of the child from the parent (Art 149). Article 171 even states that the parent can lose parental rights if the child witnesses violence in the family. While it is understood that perpetrators of domestic violence can lose parental rights because of violence, this rarely happens in practice. Conversely, women victims of violence have been known to lose custody of their children because the children witnessed violence against them.
- d. **The Family Law imposes fines on parents for not allowing contact with children, which disregards the dynamics of domestic violence and perpetrators' use of children to manipulate their victims.** The Family Law includes fines of up to 30,000 kunas (approximately \$5,000) and the possibility of prison sentences for not complying with the court's decision regarding parenting time.¹¹⁵ Yet, child visitation in domestic violence cases can present an opportunity for the offender to commit further violence and even murder.¹¹⁶ Furthermore, visitation facilities with adequate security and supervision are rare in Croatia.¹¹⁷ For women who are afraid of their perpetrators and want to protect themselves and their children from further attacks, such a provision could be used against the victims by alleging she is not permitting contact when, in reality, she is protecting herself and her children.¹¹⁸

38. **The probation system is underutilized and underfunded,** which fails to fully guarantee to domestic violence victims their rights under Articles 2, 6, 7, and 9. The Law on Probation entered into force at the end of 2009, and the first of 12 probation offices opened in June 2011.¹¹⁹ The probation offices supervise individuals on suspended sentences under the Criminal Code with protective supervision or community service or those who are on conditional release from prison.¹²⁰ Its purpose is to monitor

¹¹⁴ Family Law, Art. 100; email from AZKZ to The Advocates, June 14, 2013 (on file with authors).

¹¹⁵ Family Law, Art. 417(3).

¹¹⁶ "Implementation of Croatia's Domestic Violence Legislation," *The Advocates for Human Rights, et al.*, 2012, 83.

¹¹⁷ *Ibid.*

¹¹⁸ Email from AZKZ to The Advocates, Sept. 21, 2013 (on file with authors).

¹¹⁹ Dijana Šimpraga, et al., "Probation in Europe: Croatia," 2014, 7; Interview with Individuals within the Probation Ministry, June 4, 2014.

¹²⁰ Interview with Probation Expert, June 10, 2014.

perpetrators' compliance with their sentences; yet, the probation office is short on staff and resources to meet its current mandate. In 2013, the probation system supervised 2,909 perpetrators with approximately 70 staff,¹²¹ and there are reports of the system not having sufficient cars to monitor all perpetrators under their supervision across the country.¹²² In addition, the probation system currently only monitors those with criminal convictions, leaving unmonitored both conditional convictions without protective supervision and misdemeanor punishments. The probation offices conduct risk assessments of perpetrators. Courts and prosecutors could use these risk assessments not only in assessing penalties, but also in determining measures to protect victims. Despite this potential, individuals working in probation report that the use of probation in sentences is decreasing,¹²³ and others report that the probation system is not functioning, especially with respect to domestic violence cases.¹²⁴ Croatia should be encouraged to conduct trainings regarding the probation system, especially for judges and prosecutors, and expand the staffing, funding, and mandate of the probation system to meet its potential to hold perpetrators accountable and protect victims.

IV. Recommendations

39. Train police officers, prosecutors, and judges on identifying the primary aggressor and assessing defensive injuries to reduce the number of dual arrests, charges and convictions of victims of domestic violence;
40. Train criminal judges on the application of and promote their use of eviction and restraining order safety measures under the Criminal Code and precautionary measures under the Criminal Procedure Code in domestic violence cases;
41. Amend the Criminal Code to include a specific crime of domestic violence and incorporate coercive control so that domestic violence offenses do not have to be prosecuted as bodily injuries;
42. Amend the Misdemeanor Act to add precaution measures of a prohibition against stalking, harassment, and communication; and eviction, which can protect victim safety before a judgment is issued, and train and encourage judges and police officers to impose these measures;
43. Promote the use and expansion of the probation system and ensure that it is supported with sufficient staff and resources;

¹²¹ Interview with Individuals within the Probation Ministry, June 4, 2014.

¹²² Interview with Probation Expert, June 10, 2014.

¹²³ Interview with Individuals within the Probation Ministry, June 4, 2014.

¹²⁴ Interview with Ministry of Interior, June 2, 2014; Interview with NGO, June 2, 2014.

44. Amend the LPDV to redefine psychological and economic violence to ensure that domestic violence only includes those acts that threaten the victim with physical harm or cause fear of such harm and acts of coercive control;
45. Introduce a civil order for protection that provides remedies for victim safety, including a restraining order, eviction of the offender from the family home, prohibition against further violence, stalking and harassment, ban against purchasing, using or possessing firearms, an order for the offender to provide financial assistance/child support to the victim, and an award of temporary child custody with the physically non-violent parent.
46. Ensure that the definitions of psychological and economic violence are enforced in a manner that takes into account the context, severity, the use of power and control, repetition, harassment, and overall pattern of violence that constitutes coercive control;
47. Amend the law to ensure that LPDV protective measures remain in effect throughout the duration of any appeals process;
48. Train judges, prosecutors, and police on the application and enforcement of safety measures under the Criminal Code in domestic violence cases;
49. Ensure the punishment of violations of protective measures and enforce punishments of offenders under the LPDV;
50. Increase the issuance of jail sentences over fines for violations of protective measures;
51. Amend the LPDV to lower the standard of “direct threat to life” for the issuance of urgent protective measures to one that reflects an “imminent danger of physical harm;”
52. Expand the scope of the LPDV to protect victims of domestic violence who have never lived with their offender, but are in or have been in an intimate relationship;
53. Provide adequate, secure, and consistent funding to autonomous women’s shelters and adopt legislation that would guarantee such funding to the shelters while ensuring their autonomy;
54. Pending the decision of the Constitutional Court, amend the new Family Law to ensure that harmful provisions, including mandatory mediation, the prohibition from leaving a city, non-compliance with a parenting agreement, and requirements to cooperate with their perpetrator in cases where domestic violence is present, are excluded;
55. Repeal legal provisions in the Family Law that hold victims responsible when children witness domestic violence and amend laws and policies to ensure that violence by one parent against another is identified and taken into account in custody decisions;
56. Clarify and simply the process to apply for free legal aid;

57. Mandate involvement of women's NGOs and autonomous women's shelters in coordinated community responses and greater interagency collaboration among judges, prosecutors, police, social workers, and the probation system with the aim of increasing and focusing efforts on promoting victim safety and holding offenders accountable;
58. Foster and support efforts by women's NGOs, including autonomous women's shelters, to coordinate the community response among NGOs, the police, the courts, Centers for Social Welfare, health care providers, probation, shelters, and the media;
59. Increase cooperation and communication with the probation system, and take steps to establish an effective role for probation in overseeing misdemeanor domestic violence cases; and
60. Provide and fund mandatory and regular gender-sensitive training to judges, police, CSW personnel, prosecutors, health care workers, and psychosocial treatment administrators on the dynamics of domestic violence and coercive control, in collaboration with women's feminist NGOs.