



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

**for the 61st Session: Pre-Sessional Working Group  
Adoption of List of Issues  
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**by  
The Advocates for Human Rights, a non-governmental organization in special  
consultative status pursuant to HRC resolution 5/1 of 18 June 2007**

**and**

**Autonomous Women's House Zagreb, a non-governmental organization**

1. Domestic violence is a form of discrimination against women and violates women's human rights. It violates a women'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.<sup>1</sup> In 2013, there were approximately 14,335 domestic violence offenses under the domestic violence law;<sup>2</sup> the rate of domestic violence is actually greater, however, as this number does not include criminal-level domestic violence offenses.<sup>3</sup> Femicides are also a serious problem in Croatia; 12 women were killed by their male partners in 2012,<sup>4</sup> and 11 women were killed by their male partners in 2013.<sup>5</sup>
2. In 2005, the CEDAW Committee expressed concern over the prevalence of domestic violence and need for more measures. It recommended the State Party immediately adopt a strategy on ending violence against women that includes "legislation, to prevent violence against women, provide protection, support and rehabilitation services to victims, and punish the offenders." The CEDAW Committee also recommended the State Party ensure that all women victims of violence have access to shelter and that all systems actors are trained and sensitized on violence against women and the appropriate response.<sup>6</sup>
3. **Croatia has taken steps to combat domestic violence in the direction toward fulfilling its obligations under CEDAW.** Importantly, it passed the misdemeanor Law on Protection against Domestic Violence (LPDV), which provides for six protective measures a victim can seek: 1) psychosocial batterers' treatment<sup>7</sup>; 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.<sup>8</sup> Three of these measures—the restraining order, the stalking/harassment prohibition, and eviction—can be requested on an *ex parte* "urgent" basis, requiring the misdemeanor court to render a decision within 24 hours.<sup>9</sup> At a hearing, the judge may not only grant long-term protective measures but also impose a sentence or fine on the offender. Implementation of the LPDV, however, shows that there are several areas where the Croatian government is not in compliance with its obligations under CEDAW.
4. **Croatia has adopted other policies to promote women's safety in domestic violence cases.** In November 2010, government ministries entered into an agreement on cooperation on domestic violence, to strengthen cooperation and promote protection of victims.<sup>10</sup> Croatia has also distributed Victims' Rights Information Statements and 7,000 "Procedure Reminder" forms to police officers who respond to domestic violence cases.<sup>11</sup>
5. There remain several areas for improvement in the government's response to domestic violence. In particular, **dual arrests** where both the victim and perpetrator are arrested, charged, or convicted for domestic violence are prevalent in Croatia. Other issues under the LPDV, including **psychosocial treatment** and the **tolling effect of appeals**, present challenges for protecting victims and holding offenders accountable. The scope of the LPDV also does not include or protect intimate partners not living together. Problems with **prosecution of domestic violence under the new Criminal Code** and other penal

measures, including **probation** and **criminal post-conviction security measures**, also are problematic in implementation. Finally, **victim assistance** measures, such as legal assistance and shelters, require greater government support.

6. **Dual arrests and convictions of both the perpetrator and the victim are prevalent throughout Croatia.** When police respond to domestic violence, they at times arrest and even charge the victim. These 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.<sup>12</sup> 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.<sup>13</sup>
  - 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.<sup>14</sup> An officer explained that, “[w]e don’t make those calls. It is for the court to decide who is telling lies.”<sup>15</sup>
  - 3) Police are not trained in identifying injuries inflicted out of self-defense and instead defer that evaluation to doctors. 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.<sup>16</sup> An ER surgeon who herself sees patients with these injuries recommended that police play a larger role in documenting injuries.<sup>17</sup>

The effects of these dual charges and convictions on victim safety and offender accountability are devastating: a victim who reports domestic violence only to be arrested and convicted will never seek help again from the government.

*Suggested Questions:*

- What steps is the State Party taking to ensure that victims are not arrested, charged, and convicted when they seek protection from physical domestic violence?
  - Will the State Party amend the LPDV to redefine psychological and economic violence to ensure that this includes only those acts that threaten the victim with physical harm or cause fear of such harm? What steps will the State Party take to ensure that 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, and harassment in each case?
  - To avoid the arrest of victims, will the State Party provide accompanying commentary or directive to the LPDV to aid authorities in identifying the predominant aggressor and acts which are performed in self-defense?
7. **Police and judges also limit offender accountability for violence under the LPDV by favoring treatment over sanctions that provide immediate protection to victims.** Specifically, police and judges tend to propose and issue psychosocial and addiction

treatment, weapons confiscation, and to a lesser extent, restraining orders, under the LPDV. This inclination toward batterers' programs is problematic both because of questions regarding their efficacy and the lack of a monitoring mechanism to ensure the offender's compliance. 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."<sup>18</sup> Yet, police first responders state that evictions and restraining orders are actually the most effective protective measures.<sup>19</sup> Many interviewees questioned the effectiveness of psychosocial treatment programs, in part because there is no evaluation to gauge its success aside from personal observations about recidivism, and there is no systematic monitoring and reporting system if the offender fails to attend.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> Judges have continued to order psychosocial treatment measures even though they are unavailable in many locations due to lack of funding.<sup>23</sup> 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.<sup>24</sup> Moreover, batterers' treatment programs run the risk of diverting much needed and scarce resources away from services for the victim, such as shelters.<sup>25</sup>

*Suggested Questions:*

- What steps is the State Party taking to monitor and enforce offenders' compliance with psychosocial treatment programs?
  - What steps is the State Party taking to ensure ongoing, independent, and impartial evaluation of Croatia's psychosocial treatment programs' effectiveness in ending domestic violence?
  - What steps is the State Party taking to ensure that protective measures that promote victim safety (i.e. restraining order, eviction, and prohibition against stalking and harassment) are prioritized by state actors when requesting and issuing protective measures?
8. **An offender appeal automatically suspends protective measures from becoming effective, leaving the victim unprotected.** Upon the filing of an appeal, the LPDV calls for the immediate suspension of all protective measures, including those important to victim safety, such as restraining orders, evictions, and stalking or harassment measures.<sup>26</sup> As a consequence, the victim is unprotected at one of the most dangerous times for her, *i.e.* after she has chosen to separate from her offender. In its report to the Human Rights Committee, the State Party insists that an appeal does not postpone the enforcement of the decision unless the Misdemeanor Law states otherwise.<sup>27</sup> But Article 191(3) of the Misdemeanor Law states that an appeal submitted within the 8-day deadline

by the authorized person “prolongs the execution of the verdict;”<sup>28</sup> in other words, an appeal against LPDV protective measures halts their entry into force. When the perpetrator does appeal against protective measures, those appeals can take up to one month or even far longer—during which time, the victim has no protection against her abuser.<sup>29</sup>

9. **Additionally, police do not always have sufficient capacity to appeal on behalf of the victim when her order for protection is denied.** Police file for protective measures under the LPDV on behalf of victims in up to 90 percent of applications.<sup>30</sup> However, according to a High Misdemeanor Judge, if these protective measures are not granted, police appeal very few cases on behalf of the victim.<sup>31</sup> The Gender Equality Ombudsperson further explained that police surrendered their right to appeal in 16% of cases and appealed in only 1% of surveyed cases. She stated, “We think [the number of appeals] is a really low level.”<sup>32</sup> Yet, because the police become the official party when they initiate proceedings, victims and their lawyers are often precluded from making the appeals themselves.<sup>33</sup> Indeed, a High Misdemeanor Judge remarked that when the LPDV allows a victim to act as a prosecutor, *i.e.* seek the protective measures herself, that is “when she has the best rights.”<sup>34</sup> Furthermore, victims and their lawyer are not necessarily aware when an appeal is made, because the police do not always inform them if they appeal.<sup>35</sup>

*Suggestion Questions:*

- Will the State Party amend its legislation to allow protective measures to take immediate effect upon the decision of the court of first instance and to keep those measures in place throughout the duration of any appeals process?
- What measures is the State Party taking to ensure that victims are granted authority and receive assistance to make an appeal if their protective measures are denied?

10. **The LPDV does not protect victims of domestic violence in an intimate partner relationship.** 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.<sup>36</sup>

*Suggestion Question:*

- Will the State Party 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 with him?

11. **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.<sup>37</sup> Failure to report such acts can result in a fine of 3,000 kunas (approximately 400

Euros).<sup>38</sup> 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.<sup>39</sup> 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.<sup>40</sup> The doctor also expressed concern over mandatory reporting requirements without proper training on domestic violence for doctors.<sup>41</sup>

*Suggested Question:*

- Will the State Party amend the LPDV to repeal the mandatory reporting requirement, except in cases involving children or other particularly vulnerable victims?

12. **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; instead, prosecutors must 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.<sup>42</sup> Because it is injury-focused, Croatia's Criminal Code prosecutes domestic violence on a single incident basis, when in reality, research shows domestic violence is actually a continuing pattern of control in which offenders use physical violence, intimidation, and isolation.<sup>43</sup> 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.<sup>44</sup>
13. **The new Criminal Code has created evidentiary burdens by requiring victims to obtain medical evidence for prosecution of injuries.**<sup>45</sup> Because domestic violence is prosecuted under injury-based provisions, actors are requiring proof of physical bodily harm. Yet, police—the first responders to the scene—only document injuries that are readily visible to them.<sup>46</sup> Even when police do document injuries, prosecutors will not accept these injury reports as the basis for prosecution. Prosecutors require a medical certificate that can only be issued by a doctor to pursue criminal charges.<sup>47</sup> Yet, victims may face several barriers to obtaining a medical certificate. While a victim could obtain medical documentation at the scene from the ambulance crew, that setting does not provide the privacy required to perform an examination in detail (to identify injuries beneath clothing) or with specialized diagnostic tools.<sup>48</sup> Ambulance ER personnel do offer further medical treatment, but it is the victim's decision whether she wants to go to the hospital.<sup>49</sup> The perpetrator may prohibit the victim from visiting an emergency room while her injuries are still visible, or she may have young children who cannot be left

alone. The perpetrator may also be present during the examination, preventing open communication between the victim and the doctor. One ER physician explained that although she stresses to her patients she will keep their information confidential, women are too frightened to explain the cause of their injuries because their abuser may be waiting in the near vicinity.<sup>50</sup> 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. Unless the victim admits her injuries are from domestic violence, doctors do not opine on the cause of injury but only document what the patient says was the cause.<sup>51</sup> Finally, because many women will endure long-term domestic violence over several years before reporting, most victims will not visit the doctor unless and until their domestic violence injuries are severe.<sup>52</sup>

14. **Reluctance to use the new Criminal Code and the medical certificate requirement also results in repeat domestic violence being charged multiple times as misdemeanor offenses**, for which the maximum penalty is just 90 days' prison sentence and a fine. For example, a victim in one recent case had seven misdemeanor decisions against her abusive husband; the police continued to charge him under the Misdemeanor Law, despite the history of violence and his threats to kill her and stab her with a needle to infect her.<sup>53</sup> Her lawyer expected the seventh ruling to result in a prison sentence but it instead was merely a fine.<sup>54</sup>

*Suggested Questions*

- Will the State Party amend the Criminal Code to ensure criminal prosecution of all forms of domestic violence, including long-term violence and coercive control?<sup>55</sup>
- What measures is the State Party taking to ensure that domestic violence is prosecuted in a way that is commensurate with the severity of the offense?
- What measures is the State Party taking to ensure that domestic violence can be prosecuted as a crime, even in the absence of a medical certificate?
- What commitment is the State Party adopting to enable police officers to document domestic violence injuries and promote police reports as an acceptable basis for criminal prosecution?

15. **The adoption of the new Criminal Code creates a loophole for offenders with pending cases under the former Criminal Code and fails to hold them accountable.** 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.<sup>56</sup> This created a loophole for cases under Article 215A that were initiated prior to the new Criminal Code and were still ongoing when the new code entered into force. Because there was no corollary domestic violence article in the new Criminal Code, prosecutors reduced or even dropped charges for these domestic violence offenders. 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.<sup>57</sup> Autonomous Women's House Zagreb has identified at least 14 other cases where charges were dropped or reduced to lesser charges because of this loophole. The NGO has brought this information to the Ministry of Justice's attention, but as of the time of this submission, the government has not taken further action to remedy the problem.

16. **Judges need immediate training on safety measures under the Criminal Code and precautionary measures under the Criminal Procedure Code.** Two new safety measures under the Criminal Code – restraining orders<sup>58</sup> and evictions<sup>59</sup> - are important measures to protect victims after a criminal trial. 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; however, only one eviction security measure had been issued in the 18 months since the law entered into force, and even that is not a final ruling.<sup>60</sup> 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.<sup>61</sup> 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.
17. **Croatia's new probation system monitors a limited scope of offenders.** Croatia's probation system was created in 2011, and it is responsible for supervising offenders on conditional release and under a conditional sentence with protective supervision and community service.<sup>62</sup> There are many positive aspects to the probation office's work, including its use of a risk assessment, a basic data tracking system, and the general efforts of the staff to complete their work with limited resources.<sup>63</sup> The probation system, however, monitors only criminal cases and does not address misdemeanor cases.<sup>64</sup> Protective measures issued under the LPDV are misdemeanor orders and therefore not subject to probationary monitoring. Thus, although the creation of the probation system is welcome, no one is monitoring domestic violence offenders' compliance with LPDV protective measures, such as psychosocial treatment.<sup>65</sup> One NGO that serves domestic violence victims stated that none of its clients have mentioned their abusers as being under probation.<sup>66</sup> One lawyer further lamented that the probation system does not supervise misdemeanor offenders as she sees perpetrators continuing their violence even after a misdemeanor conviction.<sup>67</sup> Moreover, the criminal cases that probation does monitor are limited to offenders on conditional release from prison, offenders whose sentences have been suspended with protective supervision, and offenders sentenced to community service, and does not cover those offenders with suspended sentences only.<sup>68</sup>
18. **Croatia's new probation system is under-utilized.** Probation officers explained they have a protocol established with the police, but protocols with the other sectors, including social welfare, prosecutors, and shelters, would be helpful for coordination.<sup>69</sup> Overall, the probation system is not used to its full extent by other sectors. Other sectors stated they have not worked with the probation system.<sup>70</sup> The Ministry of the Interior described the probation office as not "functioning," a perception that reflects the lack of

communication and coordination between the two sectors.<sup>71</sup> A prosecutor also acknowledged she was unfamiliar with their role, even though probation works specifically on criminal cases they prosecuted.<sup>72</sup> Finally, probation officers observed that the courts' use of probation has decreased and expressed a desire for the judicial system to use their reports more often.<sup>73</sup>

19. **Croatia's new probation system needs more resources.** A probation expert stated that there are insufficient resources for the probation system.<sup>74</sup> In 2013, there were approximately 70 probation staff to handle 2,909 perpetrators,<sup>75</sup> but more probation officers are needed.<sup>76</sup> Also, probation officers do not always have vehicles to visit offenders, so they must borrow cars from prison officials to conduct their work.<sup>77</sup> Probation officers in one large city explained they have a security guard present only one day per week in their office, which leads some of them to feel unsafe at times.<sup>78</sup>

*Suggested Question:*

- What steps is the State Party taking to ensure there is a mechanism to monitor compliance with LPDV protective measures, specifically psychosocial treatment and addiction treatment?
- What commitment will the State Party adopt to ensure that probation plays a greater role in monitoring domestic violence cases, whether misdemeanor or criminal?

20. The new Family Law was adopted on September 1, 2014. Despite vocal criticism by a number of groups, the Family Law passed with a number of problematic provisions in the law itself. **Dangerous provisions in the new Family Law punish victims and place them at risk of further violence by their abuser.** The following provisions in the new Family Law are of concern:

- **Mandatory mediation in divorce cases.** The amendments indicate that mediation will not be mandatory in cases of domestic violence;<sup>79</sup> however, a victim may still be compelled to undergo mediation with her abuser in cases where there are no pending claims of domestic violence or there is a lack of proper screening. Center for Social Welfare staff, who routinely conduct mediations, do not typically screen clients for domestic violence or inform victims of their right to decline mediation in the presence of their perpetrator.<sup>80</sup> 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. Because mediation in divorce is usually geared toward reconciling the family, mediation in domestic violence cases is problematic by encouraging the victim of violence to remain with her perpetrator.
- **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

city is not able to provide her with a space (or the space does not exist), this would require victims to remain in dangerous situations.<sup>81</sup> 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. Furthermore, 11 of Croatia's 18 shelters require referrals from the CSW or police for admission.<sup>82</sup> This requirement further curtails victims' access to shelter; if a victim is not yet ready to report the violence to authorities, she may be unable to avail herself of safe refuge at these 11 state homes.

- **The new Family Law requests 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,<sup>83</sup> which range from oversight to removal of the child from the parent.<sup>84</sup> 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 their mothers.
- **Fines for parents for not allowing contact with children.** The Family Law punishes parents who do not comply with the court's decision on parenting time with fines of up to 30,000 kunas (approximately \$5,000) and prison sentences.<sup>85</sup> Yet, child visitation in domestic violence cases can present an opportunity for the offender to commit further violence and even murder.<sup>86</sup> Visitation facilities with adequate security and supervision are rare in Croatia,<sup>87</sup> and women have been harmed and even murdered during child visitation.<sup>88</sup> 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.<sup>89</sup>

*Suggested Questions:*

- How will the State Party ensure that victims are not compelled to undergo mediation, particularly in cases where they do not self-report domestic violence?
- What response will the State Party take if domestic violence victims flee to another city for safety without the approval of the other (abusive) parent?
- What steps will the State Party take to ensure domestic violence victims are not penalized under the Family Law if they do flee to another city without the other parent's approval?
- How does the State Party intend to enforce the new Family Law provision imposing punishments for parents who do not comply with court decisions on parent times in cases of domestic violence?
- What steps, if any, will the State Party take to address the risk of further harm that child visitation and exchange poses to domestic violence victims given Article 417(3) of the new Family Law?
- Will the State Party provide an exemption to domestic violence victims and not subject them to the requirements of Article 417(3) of the new Family Law? How will it do so?

**21. Under the Croatian Free Legal Aid Act, victims have the right to legal representation.**<sup>90</sup> This right does not extend to misdemeanor and criminal proceedings, however, where the state presumably represents them. Between February 2009 to January 2010, 173 victims of domestic violence obtained legal aid in those cases where they were able to do so.<sup>91</sup> Interviewees reported that free legal aid is often difficult to access for many women, as the application forms are extremely complicated.<sup>92</sup> In addition, other barriers are the low-income level requirement that excludes some women from qualification, the dearth of attorneys willing to do pro bono representation, and the lack of awareness about its availability. Other NGO workers explained that access to free legal aid requires proof of domestic violence, such as a police report, which further limits eligibility.<sup>93</sup>

*Suggested Questions:*

- What steps is the State Party taking to simplify application procedures for legal aid or provide applicants with assistance to complete such forms?

**22. Regular and gender-sensitive trainings are critically important.** Such trainings should address the dynamics of domestic violence and implementation of the LPDV are needed for all sectors, including police, judges, prosecutors, health care workers, and Centers for Social Welfare employees. None of these actors receives training on identifying the primary aggressor or on conducting risk assessments, and legal actors do not receive training on assessing defensive injuries. Given the prevalence of dual arrests and the alarming rates of domestic violence murders,<sup>94</sup> both of these trainings are essential to protecting victims. Trainings on domestic violence and related laws are irregular and often manifest in actors' misunderstanding and misapplication of the laws. Misdemeanor judges use a troubling technique called "facing" to assess credibility by forcing a victim and abuser to tell their versions of what happened while confronting each other a few meters apart.<sup>95</sup> One lawyer described how poor bench practices compel them to resort to requesting recusals of judges; in one case, the judge encouraged the parties to reconcile after the hearing and failed to intervene when the offender began verbally abusing the victim in court.<sup>96</sup> In other cases, judges continue to order child visitation with the father, in spite of risks to the non-violent parent, because "the child has a right to [see] his father."<sup>97</sup>

*Suggested Questions:*

- What steps will the State Party take to ensure immediate, gender-sensitive training on dynamics of domestic violence and the LPDV for all police, judges, prosecutors, health care workers, and Centers for Social Welfare employees?
- Will the State Party ensure that such trainings are created in consultation with NGOs that serve domestic violence victims and are grounded in international human rights standards that prioritize victim safety and offender accountability?

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<sup>1</sup> Women Against Violence Europe (WAVE) 2012 Report, at 66.

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

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- <sup>3</sup> 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.
- <sup>4</sup> Country Reports on Human Rights Practices: Croatia, U.S. Dep't of State (2013).
- <sup>5</sup> Personal Communication from Valentina Andrasek to Theresa Dykoschak, via email, Sept. 12, 2014 (on file with authors).
- <sup>6</sup> Report of the Committee on the Elimination of Discrimination against Women, General Assembly Official Records Sixtieth Session Supplement No. 38, U.N. Doc. A/60/38 (2005), para. 51-52.
- <sup>7</sup> The Croatian perpetrator 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, two-hour group meetings. The treatment also calls for victim involvement, on a voluntary basis, designed to inform the victim about the program, gather background information 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).
- <sup>8</sup> LPDV, Article 11(2).
- <sup>9</sup> LPDV, Article 19(1), (3). Within eight days of the decision granting urgent measures, the applicant must file a proposal for a hearing on issuance of long-term protective measures.
- <sup>10</sup> Third Periodic Reports of States Parties Due in October 2013: Croatia (Advance Unedited Version), Jan. 8, 2014, para. 131.
- <sup>11</sup> Third Periodic Reports of States Parties Due in October 2013: Croatia (Advance Unedited Version), Jan. 8, 2014, para. 133.
- <sup>12</sup> Interview with Police, June 3, 2014.
- <sup>13</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).
- <sup>14</sup> Interview with Police, June 3, 2014.
- <sup>15</sup> Interview with Police, June 3, 2014.
- <sup>16</sup> Interview with ER Doctor, June 4, 2014.
- <sup>17</sup> Interview with ER Surgeon, June 4, 2014.
- <sup>18</sup> 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.
- <sup>19</sup> Interview with Police, June 3, 2014.
- <sup>20</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 54-57.
- <sup>21</sup> Interview with NGO, June 2, 2014.
- <sup>22</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 54-57.
- <sup>23</sup> Interview with Misdemeanor Judges, June 4, 2014; Interview with NGO, June 2, 2014.
- <sup>24</sup> Interview with Misdemeanor Judges, June 4, 2014.
- <sup>25</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 4.
- <sup>26</sup> Misdemeanor Law, Articles 191(1), (3).
- <sup>27</sup> Third Periodic Reports of States Parties Due in October 2013: Croatia, Human Rights Committee [Advance Unedited Version], Feb. 25, 2014, U.N. Doc. CCPR/C/HRV/3, para. 117.
- <sup>28</sup> Misdemeanor Law, Art. 191(3).
- <sup>29</sup> Interview with High Misdemeanor Court, June 5, 2014; Personal Communication from Valentina Andrasek to Rosalyn Park, via email, Oct. 2, 2014 (on file with authors). Although a precaution measure under the Misdemeanor Law could be used (Articles 130), they are not typically used to protect victims. 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.
- <sup>30</sup> Interview with Misdemeanor Judges, June 4, 2013 (police are those issuing and filing for the measure in 90% of cases).
- <sup>31</sup> Interview with High Misdemeanor Court, June 5, 2014.
- <sup>32</sup> Interview with Gender Equality Ombudsperson, June 3, 2014.
- <sup>33</sup> See The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 33.

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- <sup>34</sup> Interview with High Misdemeanor Court, June 5, 2014.
- <sup>35</sup> See The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 33.
- <sup>36</sup> See The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).
- <sup>37</sup> LPDV, Article 8.
- <sup>38</sup> LDPV, Article 21.
- <sup>39</sup> See The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).
- <sup>40</sup> Interview with General Practitioner Doctor, June 10, 2014.
- <sup>41</sup> Interview with General Practitioner Doctor, June 10, 2014.
- <sup>42</sup> Interview with Lawyer, June 4, 2014.
- <sup>43</sup> 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.
- <sup>44</sup> Interview with Lawyer, June 4, 2014.
- <sup>45</sup> Interview with Lawyer, June 4, 2014.
- <sup>46</sup> Interview with Police, June 2, 2014; Interview with ER Doctor, June 4, 2014; Interview with ER Surgeon, June 4, 2014.
- <sup>47</sup> Interview with NGO, June 2, 2014; Interview with Lawyer, June 4, 2014; *see also* Interview with Prosecutor, June 10, 2014 (stating that without medical papers, the court will encounter challenges in proceeding further).
- <sup>48</sup> Interview with ER Doctor, June 4, 2014.
- <sup>49</sup> Interview with ER Doctor, June 4, 2014.
- <sup>50</sup> Interview with ER Surgeon, June 4, 2014.
- <sup>51</sup> Interview with ER Surgeon, June 4, 2014.
- <sup>52</sup> Personal Communication from Valentina Andrasek to Rosalyn Park, via email, Oct. 2, 2014.
- <sup>53</sup> Interview with Lawyer, June 4, 2014.
- <sup>54</sup> Interview with Lawyer, June 4, 2014.
- <sup>55</sup> Coercive control should be defined as an act or a pattern of acts of assault, sexual coercion, threats, humiliation, and intimidation or other abuse that is used to harm, punish or frighten a victim. This control includes a range of acts designed to make victims subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behavior.
- <sup>56</sup> Criminal Code, Art. 3.
- <sup>57</sup> Fifteen Case Profiles, Autonomous Women's House Zagreb (on file with authors) (2014).
- <sup>58</sup> Criminal Code, Art. 73.
- <sup>59</sup> Criminal Code, Art. 74.
- <sup>60</sup> Interview with Ministry of Interior, June 2, 2014.
- <sup>61</sup> Interview with Lawyer, June 4, 2014.
- <sup>62</sup> Interview with Individuals from Probation Ministry, June 4, 2014.
- <sup>63</sup> Interview with Individuals from Probation Ministry, June 4, 2014.
- <sup>64</sup> Interview with Probation Expert, June 10, 2014.
- <sup>65</sup> Monitoring offenders' compliance with the protective measures of psychosocial and addiction treatment is particularly needed. *Implementation of Croatia's Domestic Violence Legislation*, The Advocates for Human Rights, et al. (2012), at 62.
- <sup>66</sup> Interview with NGO, June 2, 2014.
- <sup>67</sup> Interview with Lawyer, June 4, 2014.
- <sup>68</sup> Interview with Individuals from Probation Ministry, June 4, 2014; Interview with Probation Expert, June 10, 2014.
- <sup>69</sup> Interview with Individuals from Probation Ministry, June 4, 2014.
- <sup>70</sup> Interview with Misdemeanor Judge, June 4, 2014; Interview with Prosecutor, June 10, 2014.
- <sup>71</sup> Interview with Ministry of Interior, June 2, 2014.
- <sup>72</sup> Interview with Prosecutor, June 10, 2014.
- <sup>73</sup> Interview with Individuals with the Probation Ministry, June 4, 2014.
- <sup>74</sup> Interview with Probation Expert, June 10, 2014.
- <sup>75</sup> Interview with Individuals from Probation Ministry, June 4, 2014.
- <sup>76</sup> Interview with Probation Expert, June 10, 2014.

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- <sup>77</sup> Interview with Probation Expert, June 10, 2014.
- <sup>78</sup> Interview with Individuals from Probation Ministry, June 4, 2014.
- <sup>79</sup> Family Law, Art. 332(1).
- <sup>80</sup> *Implementation of Croatia's Domestic Violence Legislation*, The Advocates for Human Rights, et al., 2012, 78.
- <sup>81</sup> Family Law, Art. 100; email from AZKZ to The Advocates, June 14, 2013 (on file with authors).
- <sup>82</sup> These 11 shelters are state homes that contract with the Ministry and will only accept victims through the referral process. *Implementation of Croatia's Domestic Violence Legislation*, The Advocates for Human Rights, et al., 2012, at 94.
- <sup>83</sup> Family Law, Art. 143.
- <sup>84</sup> Family Law, Art. 149.
- <sup>85</sup> Family Law, Art. 417(3).
- <sup>86</sup> *Implementation of Croatia's Domestic Violence Legislation*, The Advocates for Human Rights, et al. (2012), at 83.
- <sup>87</sup> Ibid.
- <sup>88</sup> *Implementation of Croatia's Domestic Violence Legislation*, The Advocates for Human Rights, et al. (2012), at 82-83.
- <sup>89</sup> Email from AZKZ to The Advocates, Sept. 21, 2013 (on file with authors).
- <sup>90</sup> The Ministry of Justice and county governments administer this legal representation. The Croatian Bar Association also provides pro bono lawyers to those in need. Interview with CSW, June 6, 2014.
- <sup>91</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 44-45.
- <sup>92</sup> Interview with NGO, June 2, 2014; The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 44-45.
- <sup>93</sup> The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), at 44-45.
- <sup>94</sup> The Ombudsperson for Gender Equality expressed concern on the rate of women arrested and charged as violent perpetrators--43.2 percent. Interview with Ombudsperson for Gender Equality, June 3, 2014; Ombudsperson for Gender Equality, "Annual Report 2013," Zagreb, March 2014, at 25. Yet in the majority of cases, men are the perpetrators of violent behavior in the family. Ombudsperson for Gender Equality, "Annual Report 2013," Zagreb, March 2014, at 25.
- <sup>95</sup> Interview with Misdemeanor Judges, June 4, 2014; The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).
- <sup>96</sup> Interview with Lawyer, June 4, 2014.
- <sup>97</sup> Interview with Lawyer, June 4, 2014.