



autonomna
ženska kuća
zagreb



**Croatia's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Suggested List of Issues Prior to Reporting Related to Domestic Violence in Croatia**

Submitted by

The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

Autonomous Women's House Zagreb

a feminist, non-governmental and nonprofit organization serving victims of domestic violence

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Autonomous Women's House Zagreb ("AZKZ") is a feminist, non-governmental and nonprofit 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.

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I. INTRODUCTION AND ISSUE SUMMARY

1. **The Government of Croatia is failing to uphold its obligations under Article 2 to prevent acts of torture in its jurisdiction and under Article 14(1) to ensure that victims have the right to redress and rehabilitation.** In its 2014 Concluding Observations on the combined fourth and fifth periodic reports of Croatia, the Committee against Torture expressed concern over reports there are “not enough adequate facilities available for women victims of such violence in the State party.”¹ The Committee further recommended that the Government of Croatia ensure mechanisms are available so that “women victims of violence obtain adequate redress, including compensation and rehabilitation.”²
2. **In order for Croatian shelters to receive a license to provide social services—and thereby qualify for government funding—Croatia’s Ministry of Social Policy and Youth (MSPY) requires shelters to allow a two-person government team to physically inspect premises, including those with confidential locations.** By making licensure for Croatia’s shelters contingent on conditions that jeopardize women’s safety, the Government of Croatia is failing to prevent further acts of torture and failing to ensure that victims can enjoy redress and rehabilitation. In *Dimitrijevic v. Serbia and Montenegro* (Communication No. 207/2002), the Committee against Torture recalled that “redress should cover all the harm suffered by the victim and encompasses, among other measures, restitution, compensation and guarantees of non-repetition of the violations” (paragraph 8.6), and it reiterated in paragraph 16.8 that “*redress should cover all the harm suffered by the victim, including restitution, compensation, rehabilitation of the victim and measures to guarantee that there is no recurrence of the violations, while always bearing in mind the circumstances of each case*”³ [emphasis added].

II. THE GOVERNMENT OF CROATIA FAILS TO PROTECT WOMEN FROM DOMESTIC VIOLENCE, PREVENT FURTHER ACTS OF TORTURE AND ENSURE THAT VICTIMS CAN ENJOY REDRESS AND REHABILITATION.

3. **On December 9, 2015, MSPY published a call for proposals (“tender”) for 3-year programs of NGOs providing shelter and counseling services for women and children victims of domestic violence in Croatia.** One of the tender’s conditions was that NGO applicants apply for and be granted a license on minimum requirements for provision on social services. This condition is a new development in the state’s co-financing system for shelters since 2009. The new funding protocol requires NGOs to formally request a license, which AZKZ did in January 2016. A timeline of AZKZ’s communications with and efforts to secure this license from MSPY are described in the footnote to this paragraph.⁴

¹ Committee against Torture, Concluding observations on the combined fourth and fifth periodic reports of Croatia, Dec. 18, 2014, U.N. Doc. CAT/C/HRV/CO/4-5, para. 16.

² *Id.*

³ *Dimitrijevic v. Serbia and Montenegro*, Committee against Torture, Communication No. 207/2002, 29 Nov. 2004, UN Doc. No. CAT/C/33/D/207/2002.

⁴ The following is a timeline describing AZKZ’s efforts to secure a license and communications with MSPY:

4. **The inspections requirement creates great security risks to women and children staying in those shelters that keep their locations confidential.** The license—and therefore the government inspections—is a precondition for shelters and safehouses to apply and qualify for the license, and therefore government funding. AZKZ’s Zagreb shelter has operated for 25 years in a classified location that remains an official state secret, as formally contracted between the City of Zagreb and the Government of Croatia. Without this license, AZKZ will be unable to operate, and it will be disqualified from applying for critical government funds that it has received and relied upon for the past eight years.

5. **AZKZ’s shelter performs the critical and necessary services to prevent further acts of torture through its confidential location and to provide domestic violence victims**

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- On December 9, 2015, MSPY published a call for proposals (“tender”) for 3-year programs of NGOs providing shelter and counseling services for women and children victims of family violence in Croatia. One of the tender’s conditions was that NGO applicants would need to apply for and be granted a license on minimum requirements for provision on social services. This was a new development in the state’s co-financing services system, which has been in place since 2009. For NGOs lacking this license, they could request it before the tender deadline of January 11, 2016. Therefore, AZKZ made a request for the license in January 2016.
 - In the meantime, elections were held. Since January 2016, a new government and new minister have taken office.
 - On February 2, 2016, AZKZ requested a meeting with the minister to prevent the shelter’s closure and to find means of complying with the terms of the tender (i.e., securing a license).
 - On February 10, 2016, a Ministry representative of the Commission for determining the conditions for obtaining the license on minimum requirements for provision on social services contacted AZKZ. The Ministry representative asked to schedule an investigation date, which was subsequently set for March 1.
 - On March 1, two members of the Commission visited AZKZ’s counseling center, where they performed an investigation of the counseling center space. AZKZ presented the Commission with more than 70 pages of documentation of the shelter and proposed that they conduct the investigation of the shelter via examination of this documentation. The Commission responded that it was not within their jurisdiction to make a decision on this type of investigation.
 - On March 21, AZKZ sent a formal proposal to the Ministry requesting that they allow the Commission to perform the shelter investigation via examination of the documentation or video link.
 - On May 6, AZKZ received an e-mail from the Ministry representative of the Commission, again asking to schedule a shelter inspection, without any reference to AZKZ’s alternative proposals.
 - On May 9, AZKZ again sent a written reminder to the Minister requesting a meeting.
 - In a letter dated June 14, 2016, MSPY refused to meet with AZKZ.
 - MSPY sent a “conclusion” communication on July 22, 2016 informing AZKZ that it must allow the investigation to be performed by the Commission’s entry into the shelter. The conclusion also refused the investigation be performed any other way.
 - On August 7, 2016, AZKZ sent a submission to the Ministry, objecting to its conclusion. AZKZ proposed the entry of one, but not both, Commission members into the shelter as a compromise.
 - AZKZ did not receive a response to its August 7 submission; instead, the government communicated its decision to AZKZ orally on August 18. On August 18, the two members of the Commission again came to the counseling center to perform another investigation of the counseling center. They informed AZKZ that the shelter investigation could only be performed by both of them entering the premises of the shelter.
 - On August 23, 2016, MSPY sent AZKZ an e-mail with the records of the August 18 investigation. On August 29, AZKZ submitted its Note to the Record to MSPY.
 - On September 15, 2016, AZKZ received a Decision from MSPY, dated September 5, denying AZKZ the license for its shelter and granting AZKZ the license for its counseling center.

with redress and rehabilitation via safe refuge and services. AZKZ's shelter location is protected to the extent that even long-term associates of AZKZ, police, courts, and other institutions do not know the address of this shelter. This confidentiality is unique to AZKZ's shelter, and it is the only one of its kind in the entire country.

6. **Although there are other state-run and operated safehouses, women victims do not avail themselves of their services to the same extent as that of AZKZ.** In fact, in its response to the U.N. Human Rights Committee's request for information,⁵ the Croatian Government acknowledged that autonomous shelters served 2.3 times more clients than state-run safehouses.⁶ A primary reason for the lower numbers of women choosing state safehouses is because those locations are not confidential. **Women have reported they do not feel safe given the state safehouses' addresses are public.**⁷ In fact, one state home was compelled to send a woman to an autonomous shelter after one week, because her husband learned the location of the safehouse.⁸
7. **Because of the shelter's confidential location, women at higher risk of violence or lethality are often placed in or seek refuge in AZKZ's shelter.** These include women whose violent partners are prominent citizens, employees of state institutions, others who have access to official state secrets, and those who resort to various activities to learn the confidential address using their personal connections, stalking, private investigators, and other actions. The need for a confidential and secure shelter is underscored by those dangerous perpetrators who go to great lengths to locate their victims. For example, a repeat and convicted abuser who perpetrated violence against his wife, as well as police and criminal judges, hired a private detective to (unsuccessfully) discover the address of AZKZ's shelter where his victim sought safe refuge.⁹ Indeed, colleagues from other shelters and homes for adults and children victims of violence often seek client transfers

⁵ *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*, Human Rights Committee, August 21, 2012, U.N. Doc. CCPR/C/HRV/Q/3, ¶10.

⁶ In its response to the U.N. Human Rights Committee's request for information, the Government of Croatia indicated that there are ten state homes, also referred to as safehouses, that have contracted with MSPY to provide shelter to victims. *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*, Human Rights Committee, February 25, 2014, U.N. Doc. CCPR/C/HRV/3, ¶98. Croatia further indicated that there were seven autonomous women's shelters that received support from MSPY, as well. *Id.*, ¶99. The Croatian government'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 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. *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*, Human Rights Committee Jan. 8, 2014, ¶100-01 [Advance Unedited Version].

⁷ Interview with NGO, June 2, 2014 (as cited in *The Advocates for Human Rights & Autonomous Women's House Zagreb, Implementation of Croatia's Domestic Violence Legislation: Follow-up Report, 2016*, at 22-23, available at http://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2016.pdf).

⁸ *Id.*

⁹ This was the reason for seeking protection for the woman victim of violence at the Misdemeanor Court, in the form of an application of the provisions on the imposition of emergency protective measures, and which finally ended with the judgment of the European Court of Human Rights in the case of *A. v. Croatia*.

to AZKZ's shelter in high-risk situations, precisely because of its secret address. Given its extensive experience in protecting women's safety, AZKZ has requested MSPY adopt "a sensitive approach and trust of the government bodies, since it is an autonomous shelter that has developed effective security protocols in the last 25 years, which require that the secret shelter not be entered without extreme necessity."¹⁰

8. **International and regional standards highlight the importance of maintaining confidentiality of shelter locations.** UN Women, in its Virtual Knowledge Centre to End Violence against Women and Girls, affirms that states should "[i]mprove women's safety and protection with measures such as: operating in a confidential location with support from security guards or police"¹¹ and acknowledges that "[i]t is generally considered best to keep the location of the shelter secret..."¹² The Council of Europe has published minimum standards for support services when combating violence against women.¹³ These minimum standards include maintaining the security of shelter residents through "confidential addresses and/or through appropriate security measures and monitoring."¹⁴
9. **AZKZ has proposed multiple, reasonable alternatives to allow effective government evaluation of its shelter that would allow issuance of the license without compromising its secret address.** Government records indicate that AZKZ did not allow inspections to take place. To clarify, AZKZ did not allow *physical visits* to its confidential shelter, but instead proposed numerous options for state inspection, including:
 - government inspection of AZKZ's counseling center (whose address is public), which took place on March 1, 2016;
 - a "video link" inspection of the shelter that would transmit both image and sound;
 - floor plans and blueprints of the shelter;

¹⁰ In addition, state safehouses carry other entrance requirements that act as barriers to women seeking to escape torture by their abuser, rendering the services of autonomous shelters even more critical to prevent further acts of torture. In addition to their public addresses, another reason for safehouses' low residency numbers is attributed to delays in entering. One safehouse acknowledged some women must wait five to ten days before entering, during which time they may decide not to stay there.¹⁰ A victim can only enter a state safehouse with a referral from the CSW or police.¹⁰ Even if a victim obtains the referral, the state safehouse may have adopted additional requirements. One client showed the seven-day contract she signed with a state home, which required her to affirm she was not contagious and to provide the safehouse with results from proscribed medical tests. The Advocates for Human Rights and Autonomous Women's House Zagreb, *Implementaiton of Croatia's Domestic Violence Legislation: Follow-up Report* (2016), at 23.

¹¹ *Shelter: Key Strategies*, UN Women Virtual Knowledge Centre to End Violence against Women and Girls, available at <http://www.endvawnow.org/en/articles/1359-key-strategies.html?next=1361> (last accessed Oct. 14, 2016).

¹² *Shelter: Location and Infrastructure Planning*, UN Women Virtual Knowledge Centre to End Violence against Women and Girls, available at <http://www.endvawnow.org/en/articles/1382-location-and-infrastructure-planning.html?next=1383> (last accessed Oct. 14, 2016).

¹³ Prof. Liz Kelly, *Combating Violence against Women: Minimum Standards for Support Services*, Council of Europe, available at [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf), at 47.

¹⁴ *Id.*

- 76 pages of detailed photographs of the entire shelter premises that demonstrate compliance with state regulations;¹⁵
- interviews with AZKZ shelter clients who consented to answer government questions at another secure location, and;
- ultimately, a physical visit by one representative of the commission. MSPY refused this proposal.¹⁶

In addition, AZKZ provided MSPY the contract between the City of Zagreb and Croatian Government declaring the shelter address an official secret.

- 10. In denying AZKZ a license to operate its shelter, the Government of Croatia refuses to protect the confidential address of AZKZ’s shelter and support a critical service that protects thousands of women and children victims of violence.** On September 5, 2016, MSPY issued a decision denying AZKZ an operating license for the shelter,¹⁷ with the consequence that AZKZ is no longer eligible for government funding. AZKZ sent multiple requests to MSPY on February 2, 2016, March 21, 2016, and May 9, 2016 requesting a meeting to discuss the matter and shelter inspection. Yet, MSPY has refused to meet with AZKZ because it does not have time (as explained to AZKZ), or it has simply ignored their requests. The result of the Croatian Government’s actions will be the permanent closure of a much-needed and –relied upon shelter after a quarter of a century serving domestic violence victims. **Victims will no longer have access to confidential shelter that would prevent further acts of torture and provide them with redress and rehabilitation as guaranteed under CAT.**

III. SUGGESTED QUESTIONS FOR THE GOVERNMENT OF CROATIA

11. The Advocates for Human Rights and Autonomous Women’s House Zagreb respectfully request that the Committee pose the following questions to the Government of Croatia:
- What steps is the State party making to ensure that NGO-led shelters and counseling centers receive sufficient funding for providing services to women and children victims of domestic violence, as a part of the rehabilitation process?
 - Does the State party have risk assessment policies and measures in order to create safety standards on confidentiality of shelters for victims of domestic violence as well as data concerning the victims?

¹⁵ The documentation provided to the MSPY on March 21, 2016 shows photographs the number of rooms, sizes, dimensions and spacing between beds, desks for children, rooms for learning and for play, living and dining rooms, kitchen with equipment, open and closed kitchen elements, refrigerators, cabinets, sanitary, technical and hygienic conditions, natural light sources, devices for uniform heating and air-conditioning, functionally arranged rooms intended for the beneficiaries and their children, rooms for the shelter workers, and all other security requirements.

¹⁶ In AZKZ’s letter to the Ministry, dated August 7, 2016, AZKZ offered the following proposal: “Following the statements made in this letter and all previous appeals to the addressed body, the Party will enable the investigation to be carried out as stated in the conclusion. Since the Commission has more than one member, and one member is sufficient to carry out the on-site investigation, the Party will exceptionally allow one member of the Commission to enter the premises of the shelter, Ms. Ruzica Jerkić, who carried out the investigation in the Counseling centre of the Party, in order to meet the formal requirements to obtain the license.”

¹⁷ The letter was dated September 5 but received by AZKZ on September 15, 2016. Personal Communication from Valentina Andrasek to Rosalyn Park, Oct. 16, 2016 (on file with authors).

- How is the State party ensuring the autonomy of shelters that receive partial state funding?
- Does the State party engage NGOs in consultations and partnership when creating policies for NGO provision of shelter and counselling to victims?
- What steps and commitments will the State party take to prevent the closure of Croatia's oldest and only confidential shelter, which has served and protected thousands of women and children victims of domestic violence?

APPENDICES

ADDITIONAL DOCUMENTATION IN SUPPORT OF THIS LOIPR SUBMISSION

- Written Communications to the Croatian Ministry of Social Policy and Youth from AZKZ, (Mar. 21, 2016).
- Written Communications to the Croatian Ministry of Social Policy and Youth from AZKZ, (May 6, 2016).
- Written Communications to the Croatian Ministry of Social Policy and Youth from AZKZ, (Aug. 7, 2016).
- Written Communications to the Croatian Ministry of Social Policy and Youth from AZKZ, (Aug. 29, 2016).
- Written Communications to the Special Rapporteur on Violence Against Women from AZKZ, (Sep. 19, 2016).