

## **WOMEN'S HUMAN RIGHTS**

### **Gender equality**

1. In Croatia differences between women and men are still visible especially in the labour market where there is a persisting trend of lower employment rate of women in comparison to men.
2. Despite relatively well anti-discrimination legislation, women still face discrimination in the area of employment on everyday basis which negatively impacts their position in the society as a whole and leads to their financial dependency.
3. In Croatia traditional views of women as those who take care for children and the household, is still present, which is probably one of the reason for lower employment rate of women. Women are also regularly employed at the lower paid jobs so that in the case of expansion of family they are those who use parental leave and stay at home to take care of the children. Great problem is also that employers do not allow women to have more flexible working hours or work from home in order to harmonize their family and professional obligations. Women are thus in a great number of cases forced to choose between family and career and having in mind that they are often employed at low paying jobs they decide to quit their job and take care of the family which puts them in unfavourable position if in the future they decide to start working again. Time period spent as a housewife or stay at home mom, is not calculated into their working age or taken into account in the calculation of the amount of their pension, because of which women in Croatia also have lower pensions than men.
4. Women are also more often than men employed on fixed term employment contracts so that in the case the of pregnancy they contracts are not extended.
5. Furthermore, even if women and men are employed at the work position of the same nature and responsibilities, they earn less than men, even though they work more and beside their regular working hours they also carry the burden of household care and care for children.
6. In Croatia there is also visible gender segregation at the labour market, since women are predominantly employed in areas which include care of the children and the elderly (education, health care, social care). At the same time, those are the areas in which wages are traditionally lower.
7. In this regard it has to be mentioned that Croatia is currently faced with demographic problem so that the state and local and regional self-government units are more oriented in finding solutions for this problem which are not

harmonized with gender equality policies. Families are encouraged to have more children with various financial benefits for every child even financial support for stay at home parents who raise three or more children, which in the long run have negative impact on competitiveness of women in the labour market.

8. At the work place women are often faced with sexual harassment as a special form of discrimination. Particularly concerning is the fact that sexual harassment is often not reported due to the fear of women that they will lose their job.
9. Sexual harassment is regulated by Anti-discrimination Act<sup>1</sup> and Gender Equality Act<sup>2</sup>, although without clear sanctions for the perpetrator. Criminal Code<sup>3</sup>, prescribes criminal offense of sexual harassment but seeks additional preconditions for criminal prosecution. There has to be a relationship of dependence between the perpetrator or the victim has to be particularly vulnerable because of his/her age, illness, disability, pregnancy etc. which goes in favour to the perpetrators as well as the fact that prescribed punishment is rather low. Also, if sexual harassment takes place between the colleagues of the same rank, provisions of the Criminal Code would not be applicable.
10. Victim has the right to seek protection from the civil court by filing anti-discrimination complaint according to the Anti-discrimination Act and Gender Equality Act. The victim can also address to her employer who is obliged to take measures in order to protect the victim from further discrimination. If employer fails to take effective measures and protect the victim, or if the employer is the one who sexually harasses the victim the court proceedings is the only mechanism through which victim can get protection and seek compensation. Court proceedings are rather long and with uncertain outcome which is also one of the reasons why victims are reluctant to initiate anti-discrimination proceedings.

### **Domestic violence and gender based violence**

11. Ratification of Istanbul Convention in Croatia was faced with fierce opponents in a form of conservative and clerical groups who imposed to the public their interpretation of the Convention stating that the aim of the Convention is to introduce gender ideology into Croatian legal system. Heated public debates over this issue had been conducted and ratification was uncertain until the last moment.
12. Finally, on 13 April 2018 the Croatian parliament adopted the Law on confirmation of the Council of Europe Convention on preventing and combating violence against women and domestic violence and the Convention finally entered into force in Croatia on 1 October 2018. <sup>4</sup>
13. After the ratification the aforementioned conservative groups gathered into initiative called „The truth about Istanbul Convention“, tried to organize a

referendum on cancellation of the Convention but failed to collect number of citizens signatures needed for the referendum.

14. It has to be mentioned that Croatian legislation was even before the official ratification of the Istanbul Convention, harmonized in line with Convention's regulations.
15. However, despite generally good legislative frame, problem occurs with its implementation in practice, following which domestic violence continues to be widespread form of gender based violence in Croatia.
16. Domestic violence in Croatia is regulated by the Law on Protection against Domestic Violence<sup>5</sup> as misdemeanour law. In great number of misdemeanour cases, perpetrators are sanctioned with mild sentences in a form of a fine or probation, while protective measures are rarely ordered which leads to repetition of violence because the purpose of special prevention with this kind of outcome for the perpetrator is not achieved. Trend of dual arrests continues since the police regularly equalizes violence and victims right to self defence, because of which victim often drops her complaint for the fear that her children would be taken from her if she got arrested. Also, police and misdemeanour judges fail to determine all relevant circumstances in domestic violence cases, focusing exclusively to the event in question that led to the complaint considering it as an isolated event, without looking into the context and history of family relations. Furthermore, there are not enough shelters for women who are victims of domestic violence and because of their financial dependency women are often forced to continue to live with their abuser and suffer even more brutal forms of violence since after misdemeanour proceeding the perpetrator is even more encouraged in his violent behaviour since he is aware that he won't be seriously sanctioned for it.
17. The new Law on Protection from Domestic Violence introduced new rights for the victims of domestic violence in misdemeanour proceedings such as the right to access to support services for victims of domestic violence, the right to effective psychological and other professional assistance and support from a body, organization or institution to assist victims of domestic violence, the right to protection against intimidation and retaliation, the right to the protection of dignity during the examination of the victim as a witness, the right to be accompanied by a person of confidence in taking all the actions in which the victim participates, the right to be informed, without undue delay, of the suspension of the detention or escape of the defendant and of the annulment of the decision to impose protective measures, the right to an representative during the proceedings, the right to be questioned by the person of the same sex in the police, the right to avoid contact with the perpetrator before and during the procedure, unless the misdemeanour procedure requires such contact, the

right to police protection for the purpose of taking personal belongings when leaving a common household.<sup>6</sup>

18. After criminal offense of domestic violence had been abolished by the Criminal Code which entered into force in 2011, the aforementioned criminal offense once again introduced into Croatian legislation by the amendments of the Criminal Cod which entered into force in 2015.<sup>7</sup> Criminal offense of domestic violence covers forms of domestic violence which are by their intensity or perseverance considered to be more serious.
19. Amendments of the Criminal Procedure Act<sup>8</sup> which entered into force in 2017 introduced additional rights for the victims of criminal offenses with special right guaranteed to the children who are crime victims, victims of sexual offenses and trafficking. Victims of sexual offenses have rights such as have the right to speak with a counselor before interrogation, the right to a representative at the expense of the budgetary funds, the right to be interrogated by the person of the same sex in the police and the public prosecutor's office, and if possible to be interrogated by the same person in the further course of the proceedings, the right to withhold answers to questions relating to the victim's strictly personal life, the right to request to be examined by audio-video device, the right to confidentiality of personal data and the right to demand the exclusion of the public from the hearing.
20. On 31 July 2018 the Government of the Republic of Croatia adopted the new Protocol on procedure in cases of sexual violence.<sup>9</sup> The new Protocol has been updated to current legislation which entered into force in the meantime in the Republic of Croatia, as it can be read from the introductory part, more precisely, it was adopted in line with the Amendments of the Criminal procedure Act from 2017, the Victim's rights Directive and ratification of the Istanbul Convention, but also in line with new publications and statistical indicators on sexual violence.
21. In June 2019 the Government of the Republic of Croatia adopted the new Protocol on procedure in cases of domestic violence<sup>10</sup>. The purpose of the Protocol is to ensure timely and effective implementation of existing regulations on protection from domestic violence, enhance cooperation and reduce domestic violence in long term. The Protocol provides for an integrated approach of all stakeholders involved in the protection of victims of violence in preventing violent behaviour by introducing preventive programs in educational institutions, early risk identification and information exchange among all included authorities and stakeholders in order to establish comprehensive victim protection. The Protocol particularly recognizes the role of civil society organizations and the media in shaping public attitudes about domestic violence and promoting awareness of equality between women and men.
22. Despite relatively well developed legal frame, the problem of its effective implementation in practice remains as crucial problem in this area.

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<sup>1</sup> Croatia, Anti-discrimination Act, Zakon o suzbijanju diskriminacije, Official Gazzete 85/08, 112/12, available at: <https://www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije>

<sup>2</sup> Croatia, Gender Equality Act, Zakon o ravnopravnosti spolova, Official Gazzete 82/08, 69/17, available at: <https://www.zakon.hr/z/388/Zakon-o-ravnopravnosti-spolova>

<sup>3</sup> Croatia, Criminal Code, Kazneni zakon, Article 156, Official Gazzete 125/11, 144/12, 56/15, 61/15, 101/17, 118/18

<sup>4</sup> Croatia, Law on confirmation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Zakon o potvrđivanju Konvencije Vijeća Europe o sprečavanju i borbi protiv nasilja nad ženama u obitelji), Official Gazette, No. 3/18, available at [https://narodne-novine.nn.hr/clanci/medunarodni/2018\\_05\\_3\\_27.html](https://narodne-novine.nn.hr/clanci/medunarodni/2018_05_3_27.html)

<sup>5</sup> Croatia, Law on Protection from Domestic Violence, Zakon o zaštiti od nasilja u obitelji, Official Gazzete 70/17, available at <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>

<sup>6</sup> Croatia, Law on Protection from Domestic Violence, Zakon o zaštiti od nasilja u obitelji, Article 6, Official Gazzete 70/17, available at <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>

<sup>7</sup> Croatia, Criminal Code, Kazneni zakon, Article 179a, Official Gazzete 125/11, 144/12, 56/15, 61/15, 101/17, 118/18

<sup>8</sup> Croatia, Criminal Procedure Act, Zakon o kaznenom postupku, Official Gazzete 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, available at <https://www.zakon.hr/z/174/Zakon-o-kaznenom-postupku>

<sup>9</sup> Croatia, Protocol on procedure in cases of sexual violence (Protokol o postupanju u slučajevima seksualnog nasilja) (2018) Official Gazette (Narodne novine) No. 70/18, available at [https://narodne-novine.nn.hr/clanci/sluzbeni/2018\\_08\\_70\\_1418.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2018_08_70_1418.html)

<sup>10</sup> Protocol of Procedure in Cases of Domestic Violence, available at: [https://mup.gov.hr/UserDocsImages//dokumenti/Protokol\\_o\\_postupanju\\_u\\_slucaju\\_nasilja\\_u\\_obitelji-usvojila\\_Vlada\\_19\\_6\\_2019.pdf](https://mup.gov.hr/UserDocsImages//dokumenti/Protokol_o_postupanju_u_slucaju_nasilja_u_obitelji-usvojila_Vlada_19_6_2019.pdf), accessed 10 September 2019