



**Implementation of
Croatia's Domestic
Violence Legislation:
*Follow-up Report, 2016***



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March 2016



This report is dedicated to the women of Croatia.

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ABOUT THE AUTONOMOUS WOMEN'S HOUSE ZAGREB

Founded in 1990, Autonomous Women's House Zagreb 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—psychical, 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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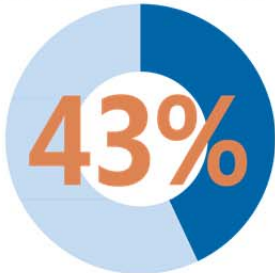
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GAPS IN LAW AND SERVICES FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE IN CROATIA

DOMESTIC VIOLENCE LAW

Women victims are charged in



of domestic violence cases



- Law equates psychological and economic violence in the same category as physical violence (meaning verbal insults are punished the same as physical assault)
- Police and judges are not trained to identify the predominant aggressor
- Police are not trained to identify defensive injuries

Intimate (and former intimate) partners cannot get protection unless they have children in common or have lived with their abuser for at least **3 years**.

Mandatory reporting compromises victim safety

Systems actors, including health care workers and civil society, must report domestic violence which compromises victim safety and autonomy.

FAILURE TO PROTECT

- An appeal by the perpetrator halts implementation of protective measures and places the victim at risk of further violence.
- The Misdemeanor Act's precautionary measures are not intended or used to protect victims during proceedings.
- The "direct threat to life" requirement for urgent protective measures is a barrier to victims in emergencies.
- Violations of protective measures and punishments under the LPDV are not adequately enforced.

VICTIM SERVICES



- Services in Croatia, particularly legal assistance, are not readily accessible to women victims of domestic violence.
- Autonomous shelters face challenges in ensuring sufficient numbers of beds, as well as serious problems with consistent and adequate funding. Ministry funding beginning in 2016 is significantly reduced and compromises shelter confidentiality and autonomy.



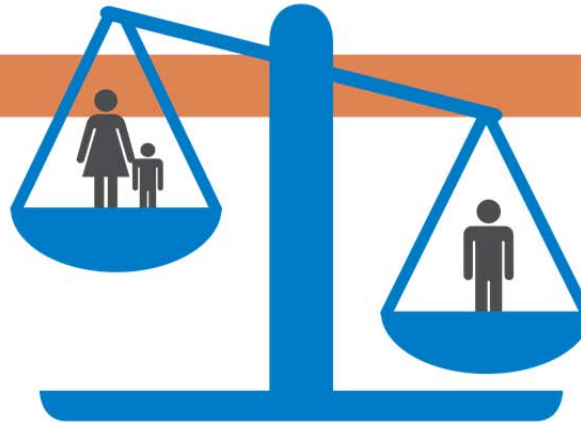
GAPS IN LAW AND SERVICES FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE IN CROATIA

FAMILY LAW

ENDANGERS VICTIM

The law allows the CSW to determine if mediation will be used in divorce but makes no reference to domestic violence, posing the risk that the victim may be forced to participate in mediation against her perpetrator.

The Law requires a parent to obtain the approval of the other parent before leaving the city of residence, posing a danger for victims seeking to flee violence.



FAVORS PERPETRATOR

The law imposes fines (max. 30,000 kunas/\$4,200USD) and possible prison time on parents for disallowing contact with children with other parent.

The law asks parents to cooperate in child-rearing, with serious consequences for a parent who refuses to cooperate.

ENDANGERS CHILDREN

Some family judges are reluctant to restrict the visitation rights of fathers who are violent toward their children's mothers.

CRIMINAL CODE



Police tend to charge domestic violence as a misdemeanor, even when there is severe violence or a high risk of lethality.

Steps must be taken to ensure prosecutors vigorously and timely pursue prosecution of domestic violence, including in cases when victims do not want to testify.

Criminal precautionary measures are not sufficiently used nor directed toward victim safety during domestic violence proceedings.

Implementation of post-conviction safety measures has been slow.

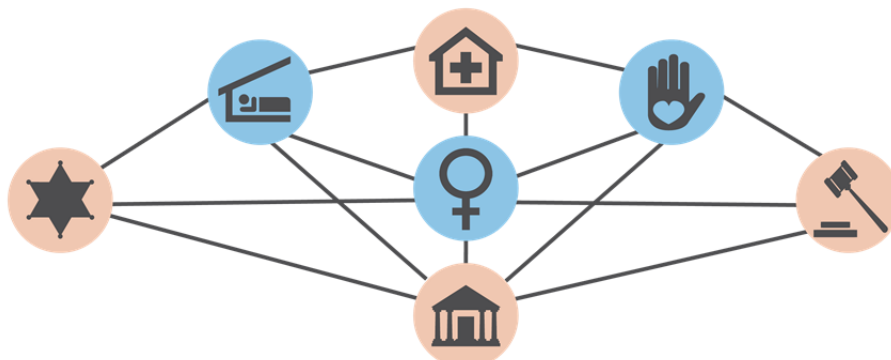
Probation system is underutilized and currently only monitors those with criminal convictions.

Probation office is also under-resourced with insufficient staff and resources.

INTERAGENCY COOPERATION

Strong cooperation with the courts and prisons is lacking.

Involvement of autonomous shelters and women's NGOs is low to non-existent.



Interagency communication and cooperation with probation is insufficient.

INTRODUCTION

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 2012, 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 misdemeanor 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 offenses⁴ nor unreported abuse. 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

In 2003, the Croatian government took an important first step in combating this problem and adopted the misdemeanor Law on Protection against Domestic Violence (LPDV). In addition, Croatia has a number of other laws that are relevant to holding offenders accountable and promoting victims' safety, including the Criminal Code, Criminal Procedure Code, Family Law, and Law on Legal Aid Act.

The international community recently voiced its concerns about the government's response to domestic violence. Throughout this report, we note recommendations made by UN human rights bodies to the government of Croatia to bring its response to domestic violence in compliance with international human rights standards.

The government of Croatia has taken the first step by restoring the specific offense of domestic violence to the Criminal Code in 2015. Nonetheless, many changes are needed to fully comply with international standards, and at a minimum, the government should:

- End dual arrests;
- Ensure all intimate partners can gain protection from domestic violence;
- Ensure victims can remain protected during an appeal of a protective order;
- Provide consistent and sufficient funding to autonomous women's shelters and services for women victims of violence;
- Collect data on domestic violence for developing strategies;

¹ Women Against Violence Europe (WAVE), *Country Report 2012: Reality Check on Data Collection and European Services for Women and Children Survivors of Violence* (2013), at 74.

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

³ Croatian Ministry of Interior, *Survey of Basic Safety Indicators in 2014 the Republic of Croatia*, (2014).

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

⁶ Valentina Andrasek, email communication with Theresa Dykoschak, September 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>.

- Provide specific training for police, Centers for Social Welfare (CSW), prosecutors, and family, criminal and misdemeanor judges on domestic violence;
- Ensure any psychosocial treatment program is consistent with internationally recognized best practices;
- Ratify the Istanbul Convention.

The following report sets forth findings made in 2014 during a monitoring mission conducted by The Advocates for Human Rights and Autonomous Women’s House Zagreb. It highlights findings on the implementation of the LPDV, the state’s response to violations of protective measures, victim services and shelters, problems with the new Family Law for victims of domestic violence, challenges in prosecution and promoting victim safety through the criminal justice system, and inter-agency cooperation.

LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE

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. Importantly, perpetrators can be fined or imprisoned for violations of the protective measures.¹¹ Finally, in addition to the six protective measures, the court can impose fines or jail sentences (up to 90 days) on perpetrators.¹²

The 2012 report, *Implementation of Croatia’s Domestic Violence Legislation*, highlights a number of challenges with respect to implementation of the LPDV, such as the high bar to issuance of emergency protective measures, harmful judicial practices such as delayed timelines and use of confrontation, and a lack of adequate protection for victims with regard to child custody and visitation.¹³ Many of these problems have persisted, and they continue today. Interviews conducted in 2014, as well as UN human rights reviews, highlighted the problem of dual arrests, concerns about the efficacy and prioritization of psychosocial batterers’ treatment as a protective measure, and appeals that suspend an order for protection.

The misdemeanor (including the LPDV) and criminal laws are mutually exclusive in Croatia¹⁴ 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. Referring to this choice, a High Misdemeanor Court judge stated, “Sometimes, for domestic violence, it would be good if

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).

¹¹ *Id.*, Art. 22(2).

¹² *Id.*, Art. 20.

¹³ The Advocates for Human Rights, Autonomous Women’s House Zagreb, and Bulgarian Gender Research Foundation, *Implementation of Croatia’s Domestic Violence Legislation* (2012).

¹⁴ *Maresti v. Croatia*, Euro. Ct. H. Rts. (2009).

there was no *Marest*¹⁵ [referring to the European Court of Human Rights decision that held that the misdemeanor and criminal laws are mutually exclusive]. The U.N. Human Rights Committee and Committee on the Elimination of Discrimination against Women (CEDAW) also expressed concerns over the gap in accountability, resulting in inconsistent punishments for acts of domestic violence and lower penalties when women are compelled to use the faster misdemeanor system.¹⁶

Under the misdemeanor system, the two possibilities for protection include: 1) the Misdemeanor Act, which has limited precautionary 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 Procedure Code includes limited precautionary measures to protect her during the proceedings, and the Criminal Code includes eight post-conviction safety measures, two of which are aimed at protection of the victim.¹⁷ The Criminal Code's protections are not as quick, strong or encompassing as the LPDV protections, but it does impose higher sanctions for the perpetrator that more proportionately respond to the seriousness of the offense than the Misdemeanor Act. As described on pages 31, implementation of both the precautionary and post-conviction security measures creates problems for the victims.

DUAL ARRESTS

*We get this wrong interpretation of the law about the spirit and intent of the law, which was to protect the victim and sanction the perpetrator. But she told him he is stupid, and he hit her and kicked her in the stomach, and the system is saying, 'You are both guilty.'*¹⁸ - NGO

In the majority of cases, men are the perpetrators of violent behavior in the family in Croatia.¹⁹ **Yet, dual arrests and convictions of both the perpetrator and the victim are on the rise throughout Croatia.** In her 2014 annual report, the Ombudsperson for Gender Equality reported that women arrested and charged as violent perpetrators under the Misdemeanor Act constituted 43.2 percent of the cases.²⁰ One interviewee recalled that of eight cases the CSW received from the court for psychosocial treatment, three involved dual arrests.²¹ They ultimately

¹⁵ Interview with High Misdemeanor Court, June 5, 2014.

¹⁶ *Concluding Observations on the Third Periodic Report of Croatia*, Human Rights Committee, April 30, 2015, U.N. Doc. CCPR/C/HRV/CO/3, ¶15; *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Croatia*, Committee on the Elimination of Discrimination Against Women, July 24, 2015, U.N. Doc. CEDAW/C/HRV/CO/4-5, ¶18(d).

¹⁷ Criminal Code, Art. 65.

¹⁸ Interview with NGO, June 2, 2014.

¹⁹ Ombudsperson for Gender Equality, *Annual Report 2013*, (Zagreb, 2014), 25. Research also shows that men are the predominant aggressor in more than 90% of cases of domestic violence. U.S. Dep't of Justice, *Report to the Nation on Crime and Justice – The Data*, Pub. No. NCJ 087068, 21 (1983), available at: <https://www.ncjrs.gov/pdffiles1/Digitization/87068NCJRS.pdf>; David M. Fine, "The Violence Against Women Act of 1994: The Proper Federal Role in Policing Domestic Violence," *Cornell L. Rev.* 84, no. 4, (1998): 252, 255 (citing Ronet Bachman, U.S. Dep't of Justice, Pub. No. NCJ-145325, *Violence Against Women: A National Crime Victimization Survey Report 6* (1994)); Nat'l Inst. of Justice, <http://www.nij.gov/topics/crime/intimate-partner-violence/measuring...> (last visited July 16, 2012) (citing Michael S. Kimmel, "'Gender Symmetry' in Domestic Violence: A Substantive and Methodological Research Review," *Violence Against Women* 8, no. 11 (2002): 1332–63); Marianne Hester, et al., *Domestic Violence Perpetrators: Identifying Needs to Inform Early Intervention* (Northern Rock Foundation and the Home Office, 2006), 3. Available at: <http://www.bristol.ac.uk/sps/research/projects/completed/2006/rj4157/rj4157researchreport.pdf>.

²⁰ Interview with Ombudsperson for Gender Equality, June 3, 2014; Ombudsperson for Gender Equality, *Annual Report 2013* (Zagreb, 2014), 25. This statistic relates to cases brought under the Misdemeanor Act. The 2014 rate of dual arrests shows an increase from earlier statistics cited in *Implementation of Croatia's Domestic Violence Legislation* (explaining the Croatian Bureau of Statistics that found 22.6% of misdemeanor domestic violence offenses were women in 2010 and an NGO estimated that 30% of its clients were arrested alongside their abuser).

²¹ Interview with CSW, June 6, 2014.

discovered the women in those three dual arrests were actually victims acting in self-defense.²² Despite the extensive trainings for more than 4,000 police officers as detailed by the Croatian government, the problem of dual arrests has continued unabated.²³ Three U.N. treaty bodies—the Committee against Torture (CAT), Human Rights Committee, and CEDAW—have expressed concern over the prevalence of dual arrests in Croatia within the past year, with CAT specifically questioning the capacity of police and misdemeanor judges to properly identify the predominant aggressor in domestic violence cases.²⁴

As a result, women victims of violence are not only arrested, but also sanctioned under Croatia’s misdemeanor laws. In some cases, misdemeanor courts issue mutual orders for protection for both parties.²⁵ A High Misdemeanor Court judge explained they can impose the measures prohibiting stalking and harassment and a restraining order on both parties when they live in the same home, particularly if children are present.²⁶ When asked if a mutual order for protection was a good idea, the judge answered in the affirmative, because she views it necessary to work with and educate the victim about respecting the protective order.²⁷

[The Committee against Torture] is concerned over reports that when police respond to domestic violence, they at times arrest and even charge the victim along with the perpetrator, that police officers are not adequately trained to respond to domestic violence calls, and that misdemeanor judges who preside over these charges are also poorly equipped to identify the predominant aggressor and have found domestic violence victims guilty of offences under the above-mentioned law.

- U.N. CAT Concluding Observations, Dec. 18, 2014, ¶16.

In some cases, women victims have been ordered to undergo psychosocial treatment, even alongside their abuser. One NGO reported that of 209 participants in a psychosocial treatment program, 54 were women.²⁸ CSW workers described how they often see cases where both parties are ordered to undergo psychosocial treatment, but after speaking with them, realize the woman is actually a long-time victim who has finally come forward to report.²⁹ Even when treatment administrators have informed the court their participant is a victim who acted in self-

²² Interview with CSW, June 6, 2014.

²³ *Consideration of Reports Submitted by States Parties under Article 19 of the Convention Pursuant to the Optional Reporting Procedure: Combined Fourth and Fifth Periodic Reports of States Parties Due in 2008: Croatia*, Committee against Torture, November 6, 2013, U.N. Doc. CAT/C/HRV/4-5, ¶135-40; *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21*, Human Rights Council, February 9, 2015, U.N. Doc. A/HRC/WG.6/22/HRV/1, ¶152; *Consideration of Reports Submitted by States Parties under Article 18 of the Convention: Fourth and Fifth Periodic Reports of States Parties Due in 2009: Croatia*, Committee on the Elimination of Discrimination against Women, December 13, 2013, U.N. Doc. CEDAW/C/HRV/4-5, ¶153, 105.

²⁴ *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Croatia*, Committee against Torture, December 18, 2014, U.N. Doc. CAT/C/HRV/CO/4-5, ¶16; *Concluding Observations on the Third Periodic Report of Croatia*, Human Rights Committee, Apr. 30, 2015, U.N. Doc. CCPR/C/HRV/CO/3, ¶15; *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Croatia*, Committee on the Elimination of Discrimination against Women, July 24, 2015, U.N. Doc. CEDAW/C/HRV/CO/4-5, ¶ 18(c).

²⁵ Interview with Police, June 3, 2014.

²⁶ Interview with High Misdemeanor Court, June 5, 2014.

²⁷ *Id.*

²⁸ Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

²⁹ Interview with CSW, June 6, 2014.

defense, courts are reluctant to overturn the punishment.³⁰ In turn, treatment administrators modify the treatment but still require her to complete the program.³¹

In other cases, misdemeanor judges impose punishments on top of protective measures for both parties. One interviewee described a recent case where the husband forced his wife to sit on the couch while he beat her head with a crutch.³² Throughout the eight years of violence, she sustained injuries to different parts of her body, including several scars on her legs.³³ A public argument and physical violence resulted in dual charges against both of them.³⁴ The husband and wife each received a six-month suspended sentence, fine, and psychosocial treatment.³⁵ Having been punished alongside her abusive husband, the now-divorced woman has psychological problems and anxiety, has changed the locks, and she remains “extremely afraid” of her ex-husband.³⁶

Dual arrests and charges in Croatia are the result of four main factors: 1) the LPDV’s definition of domestic violence, which includes psychological and economic violence; 2) police and judicial omission to determine the predominant aggressor; 3) lack of police training to identify defensive injuries; and 4) harmful attitudes. A Ministry of Interior official acknowledged:

The Misdemeanor Law defines violence as a wide definition, so a couple could be arguing and verbally abusing each other, but in the end, the man will slap the woman, and they will both end up in court...it is not up to the police to decide—they have to bring them both in. It is up to the court.³⁷

Unfortunately, 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.³⁸ 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.³⁹

DUAL ARRESTS: THE LPDV’S DEFINITION OF DOMESTIC VIOLENCE

[T]he Committee is concerned about recurrent reports that both the perpetrator and the victim in cases of domestic violence are arrested and convicted.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

Croatia’s domestic violence law equates psychological and economic violence in the same category as physical violence.⁴⁰ Economic violence involves controlling behaviors that “target the victim’s autonomy, independence and dignity in ways that compromise her ability to make decisions to escape from the subjugation.”⁴¹ Furthermore, international standards require that definitions of economic or psychological violence be implemented in a

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Interview with Ministry of Interior, June 2, 2014.

³⁸ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012).

³⁹ Interview with Lawyer, June 9, 2014.

⁴⁰ The LPDV states that “[d]omestic violence is any form of physical, mental, sexual or economic violence...” Art. 4.

⁴¹ *Definition of Domestic Violence*, UN Women Virtual Knowledge Centre to End Violence against Women and Girls, at <http://www.endvawnow.org/en/articles/398-definition-of-domestic-violence.html> (visited Nov. 25, 2015).

“gender-sensitive and appropriate manner.”⁴² Courts in Croatia, however, have misinterpreted “economic violence” to find victims who make verbal insults or spend too much money has the same level of culpability as physical abusers. Police officers also 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.⁴³ Finally, a prosecutor affirmed that, in most cases, misdemeanor prosecution occurs in response to verbal incidents.⁴⁴

Even if the woman uses verbal name-calling and the man uses physical violence, police explained they will arrest both parties to bring before a judge.⁴⁵ In one case, a husband abused his wife from 2011 to 2014 and threatened to kill her and their children.⁴⁶ The wife received an 8-day precautionary restraining order because she told her husband as he was beating her, “You stinking trash. Why do you keep abusing me?”⁴⁷ The police arrested and charged the wife for her words as psychological abuse.⁴⁸ When the woman’s lawyer complained to the Ministry of Interior, the ministry responded the police had done their job correctly.⁴⁹

The inclusion of economic violence as domestic violence in the LPDV also places women at risk of dual arrests and charges, particularly when layered with gender stereotypes. One misdemeanor judge explained a husband may be compelled to commit physical violence because of his wife’s economic violence: “[w]omen in Croatia have a greater tendency to shop a lot. Women are used to dressing nicely and wearing makeup....Women don’t have sense when they are spending money on their credit cards. When men see that, it escalates and causes physical violence.”⁵⁰ The judge explained that in these cases, the fact that she committed economic violence first is taken into consideration.⁵¹

Abolish the practice of dual arrests in cases of domestic violence.

– U.N. CEDAW Concluding Observations, July 24, 2015, ¶19.

DUAL ARRESTS: POLICE AND JUDICIAL OMISSION TO DETERMINE PREDOMINANT AGGRESSOR

“We don’t make those calls. It is for the court to decide who is telling lies.”⁵² - Police Officer

Police do not conduct a predominant aggressor assessment to identify the physically violent party and instead defer that evaluation to judges. Police explained that instead of determining who is truthful when both parties give conflicting accounts, they arrest and detain both parties.⁵³ Misdemeanor judges explained police often bring in both parties to avoid making a mistake at the scene of domestic violence.⁵⁴ But these judges recognize the need

⁴² U.N. Division for the Advancement of Women, U.N. Model Framework for Legislation on Violence against Women (2008), section 3.4.2.1. The Model Framework also calls for the expertise of actors, such as counselors, victim advocates, and service providers, to help determine the behaviors that constitute violence. *Id.*

⁴³ Interview with Police, June 3, 2014.

⁴⁴ Interview with Prosecutor, June 10, 2014.

⁴⁵ 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 rather, police must bring both parties before the court to decide).

⁴⁶ Interview with Lawyer, June 4 and 9, 2014.

⁴⁷ Interview with Victim, June 6, 2014.

⁴⁸ Interview with Lawyer, June 4 and 9, 2014.

⁴⁹ *Id.*

⁵⁰ Interview with Misdemeanor Judges, June 4, 2014.

⁵¹ *Id.*

⁵² Interview with Police, June 3, 2014.

⁵³ *Id.*

⁵⁴ Interview with Misdemeanor Judges, June 4, 2014.

for police officers to play a bigger role in identifying the primary aggressor.⁵⁵ Judges acknowledged dual arrests place the woman in a bad situation, because the “real victim” is brought into court as a defendant.⁵⁶

Police are also not adequately trained in recognizing women’s use of preemptive violence in response to long-term violence. Police explained that when a woman uses violence in response to domestic violence she has suffered for many years, “it looks like the victim is the perpetrator in these situations.”⁵⁷ Yet, police officers admitted it difficult to conduct a sufficiently detailed interview at the scene that would reveal preemptive violence.⁵⁸ One woman endured abuse for years but never called the police; in 2013, she was holding a knife because she was “sick of the situation” when her husband grabbed it and sliced himself.⁵⁹ The police arrested both parties, and the husband and wife each received protective orders banning them from stalking and harassing each other for one year.⁶⁰

The problem of dual arrests is further exacerbated in the courtroom where judges are poorly equipped to identify the predominant aggressor. A misdemeanor judge described how a husband was charged for bruising his wife’s arm; the husband sustained bruises to his neck and arm.⁶¹ Only the husband was charged with domestic violence, but the judge opined that his wife should have been charged, as well.⁶²

Provide further specific training for police officers and for misdemeanor judges on handling domestic violence cases.

- U.N. CAT Concluding Observations, December 18, 2014, ¶16

DUAL ARRESTS: LACK OF POLICE TRAINING TO IDENTIFY DEFENSIVE INJURIES

Police are not trained to identify injuries inflicted in self-defense and instead defer the evaluation to doctors.

Police explained they do not determine the nature of injuries but only report what the parties have stated and their observations.⁶³ Medical personnel are capable of documenting injuries used in self-defense, yet they are not integrated into the process. The only way a medical professional can document self-defense injuries on the perpetrator is if he goes to the hospital or signs a statement that his injuries were sustained by the victim defending herself.⁶⁴ Similar to misdemeanor judges, an ER surgeon stressed the need for a larger police role in documenting injuries.⁶⁵

DUAL ARRESTS: HARMFUL ATTITUDES

Harmful attitudes and stereotypes by systems actors further contribute to dual arrests in Croatia. The Gender Equality Ombudsperson recalled how police in a small town opined that women deserve violence because they fight with their perpetrators.⁶⁶ Such opinions affect how police treat victims. One lawyer described how her client, who had been arguing with her husband, called the police to report domestic abuse. When the police arrived, they

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Interview with Police, June 3, 2014.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Interview with Misdemeanor Judges, June 4, 2014.

⁶² *Id.*

⁶³ Interview with Police, June 3, 2014.

⁶⁴ Interview with ER Doctor, June 4, 2014.

⁶⁵ *Id.*

⁶⁶ Interview with Gender Equality Ombudsperson, June 3, 2015.

remarked in front of their children “that it would be the best if all of them [the mother and father] were in prison.”⁶⁷

These harmful attitudes permeate even the higher levels of police authority. When asked about the problem of dual arrests, a Ministry of Interior official responded, “I wouldn’t say this is a problem. These situations happen...”⁶⁸

Eliminate the practice of arresting and convicting both the perpetrator and the victim in cases of domestic violence.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15

The impact of these increasing dual arrests and convictions is devastating for women. An NGO that serves women victims of violence recounted that every fifth or sixth woman they see is upset because the police arrested her.⁶⁹ The NGO worker summarized, “She didn’t expect this—she expected help.”⁷⁰ Furthermore, a woman who calls the police for help only to be arrested herself will be deterred from reporting violence again, as will many others who hear about the woman’s arrest. The victim who received a mutual 8-day precautionary restraining order recalled, “I called the police just one time. It was the first and last time.”⁷¹ The fact that dual arrests occur is quickly becoming public knowledge; one victim was afraid to call the police after she read about women being arrested with their abusers on the internet.⁷² When she eventually called the police, she too, was charged with domestic violence and punished with a restraining order.⁷³ She summarized her experience of being charged for using verbal violence against her physically abusive husband: What happened to me: I feel like I’m the same as him, like I’m also violent. I would like society to recognize he is the abuser, not me. It said this on paper that I was an offender, but I knew I was defending myself. I just wanted peace.⁷⁴

Redouble efforts aimed at the implementation of legal provisions against domestic and gender violence, with particular attention to raising the awareness and proper training of the police.

- Mexico, Working Group on the Universal Periodic Review, July 20, 2015, ¶99.30

SCOPE OF PROTECTED PERSONS

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

⁶⁷ Interview with Lawyer, June 4, 2014.

⁶⁸ Interview with Ministry of Interior, June 2, 2014.

⁶⁹ Interview with NGO, June 2, 2014.

⁷⁰ *Id.*

⁷¹ Interview with Victim, June 6, 2014.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

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.⁷⁵

Amend [the] Law on Prevention of Domestic Violence to include all intimate partner relationships and past relationships where partners continue to pose the threat of violence within its scope.

- U.N. CEDAW Concluding Observations, July 24, 2014, ¶19.

MANDATORY REPORTING

The LPDV's mandatory reporting requirement 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.⁷⁶ Failure to report such acts can result in a fine of 3,000 kunas (approximately 400 Euros).⁷⁷ 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.⁷⁸

One doctor disapproved of her requirement to report domestic violence to the police, because it could escalate the violence and drive a woman to change doctors.⁷⁹ The law also contradicts the Law on Physicians, as it forces doctors to choose between violating the LPDV by not reporting domestic violence or breaching legally-imposed confidentiality by reporting.⁸⁰ She described:

I was working in the ER department in a very rural and poor county near Zagreb. If a woman is a victim of domestic violence, I have to call the police. But she begged me not to call, because she knows afterward, it will be worse. My private opinion is that it is not good that we have to call the police....I think it's better for her to wait to decide....You actually can make it worse.⁸¹

The doctor also lamented the lack of training on domestic violence for doctors to ensure an appropriate response under the mandatory reporting requirement.⁸² For example, one emergency room physician stated that although they ask victim's consent, they will nevertheless report to the police because of the risk of future domestic violence.⁸³

PSYCHOSOCIAL TREATMENT

⁷⁵ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 10.

⁷⁶ LPDV, Art. 8.

⁷⁷ *Id.*, Art. 21.

⁷⁸ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012).

⁷⁹ Interview with General Practitioner Doctor, June 10, 2014.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Interview with ER Doctor, June 4, 2014. *See also* Interview with Urgent Care Doctor, June 4, 2014 (stating her opinion that reporting is a good idea).

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.⁸⁴ 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.⁸⁵ 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. 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.”⁸⁶ The judge further clarified that such a perpetrator would be 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].” Her opinion that psychosocial treatment is a more appropriate remedy contravenes that of police—who are first responders to domestic violence and who opined that evictions and restraining orders are the most effective protective measures in domestic violence.⁸⁷

Many interviewees have questioned the effectiveness of psychosocial treatment programs, in part because there is no systematic monitoring and reporting system if the offender fails to attend or comply,⁸⁸ nor are there reliable consequences for failure to attend. One treatment administrator noted it notified the court of the 31 perpetrators who failed to attend treatment in 2013, after which new penal proceedings were initiated against the perpetrators.⁸⁹ This practice of reporting non-attendance and imposing sanctions on violators, however, is inconsistent. In another case, a husband was ordered into addiction and psychosocial treatment under the LPDV, but “he went to neither, and nobody asked questions as to why not.”⁹⁰ When offenders do miss classes, the possibility for them to complete the program diminishes. Misdemeanor judges reported that in these cases, perpetrators are not allowed to return and complete the program.⁹¹ In addition, there is no evaluation to gauge its success aside from personal observations about recidivism.⁹² While a perpetrator can receive a certificate of completion for these programs, the certificate only verifies attendance and is silent on whether the offender stopped using violence.⁹³

Misdemeanor judges opined that psychosocial treatment programs are effective based on their observations of the absence of recidivism in their courts;⁹⁴ recidivism as measured by these judges, however, requires the victim to report and the offender be charged and brought before the same judges. Acts of recidivism are not apparent in cases where domestic violence goes unreported or uncharged. In addition, courts do not escalate sanctions in

⁸⁴ Interview with Misdemeanor Judges, June 4, 2013 (police are the ones issuing and filing for the measure in 90% of cases).

⁸⁵ U.S. Dep’t of State, *Croatia 2013 Human Rights Report* (2013), 16.

⁸⁶ Interview with Misdemeanor Judge, June 4, 2014.

⁸⁷ Interview with Police, June 3, 2014.

⁸⁸ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), 54-57; Interview with NGO, June 2, 2014; Interview with CSW, June 6, 2014.

⁸⁹ Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

⁹⁰ Interview with NGO, June 2, 2014.

⁹¹ Interview with Misdemeanor Judges, June 4, 2014.

⁹² The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), 54-57; Interview with NGO, June 2, 2014; Interview with CSW, June 6, 2014.

⁹³ Valentina Andrasek, email communication with Rosalyn Park, October 27, 2015 (on file with authors). See also Interview with CSW, June 6, 2014.

⁹⁴ Interview with Misdemeanor Judges, June 4, 2014.

response to repeat misdemeanors. CSW workers explained that when new misdemeanor complaints are filed each time for repeat violence, “it is like they are not connected. There is no history. Every time, it is like the first time.”⁹⁵ Furthermore, the lack of a systematic data collection mechanism at the psychosocial treatment level reduces the programs’ transparency. Because private individuals carry out psychosocial treatment on a contract basis, statistics on these programs are not readily available for NGOs in Croatia to monitor.⁹⁶

When asked whether psychosocial treatment programs were effective, a Ministry of Interior official summarized, “No. Right now, they are not being implemented because there are no funds. But when they were implemented, I did not notice that they were effective.”⁹⁷ Even the government of Croatia acknowledged the need to pay greater attention to the implementation and supervision of protective measures targeting offender behavior.⁹⁸

Interviewees also expressed 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.⁹⁹ A treatment administrator explained they invite the victim to attend individual sessions to tell her side of the story.¹⁰⁰ While victims should be offered services individually, it is integral that any such contact be conducted with the goal of helping the victim and promoting victim safety. Such victim services should be kept separate from the treatment program the perpetrator is undergoing. The victim should be free to choose which, if any, services she wishes to accept, the abuser should not be present during any victim communications, and a victim’s choice to not participate should not be used against her or as a justification for limiting the perpetrator’s accountability.

In Croatia, institutions may expect or force victims to have contact with the offender. Reports from interviews show that, contrary to best practice standards, psychosocial treatment programs place the expectation—and burden—on the victim to play a role in her abuser’s treatment. Treatment administrators explained they might contact victims to see if perpetrators have completed their homework, because “she has a responsibility with the perpetrator. We consider the victim to be a helper outside of the system.”¹⁰¹ Requiring a victim to oversee her abuser’s progress in a program places an undue burden on victims and exposes her to a risk of additional violence. Abusers may resent her role and retaliate against her. Rather, contact made between a treatment program and victim should be done with the sole purpose of keeping her safe, not placing responsibility on her to manage her abuser’s use of violence. Contact may include contacting the victim to: inform her of processes so she has reasonable expectations and possesses reliable information; keep her informed of the risk of violence or to verify a risk of violence, or; connect her with victim services. Forced contact between the victim and abuser, as described above, is dangerous and compromises her safety.

Ensure the issuance of effective protective orders to guarantee the safety of victims and ensure that measures are in place to follow up on protection orders.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

⁹⁵ Interview with CSW, June 6, 2014.

⁹⁶ Interview with NGO, June 2, 2014.

⁹⁷ Interview with Ministry of Interior, June 2, 2014.

⁹⁸ *Consideration of Reports Submitted by States Parties under Article 19 of the Convention Pursuant to the Optional Reporting Procedure: Combined Fourth and Fifth Periodic Reports of States Parties Due in 2008: Croatia*, Committee against Torture, November 6, 2013, U.N. Doc. CAT/C/HRV/4-5, ¶145.

⁹⁹ The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), 4, 54-57.

¹⁰⁰ Interview with NGO, June 2, 2014.

¹⁰¹ *Id.*

Judges have continued to order psychosocial treatment measures even though such programs are unavailable in many locations due to lack of funding.¹⁰² 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.¹⁰³ The only treatment administrator in a major city explained the waiting lists mean a perpetrator often starts his program six to twelve months after it is ordered.¹⁰⁴ Misdemeanor judges deplored clinical practices that make the first call to a perpetrator nine months after the decision, during which time the perpetrator and victim may have reconciled.¹⁰⁵ Other interviewees expressed frustration they do not know if or where psychosocial treatment programs are available throughout Croatia.¹⁰⁶ 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 on page 22, shelters in Croatia already face funding challenges, and the potential diversion of funds exacerbates this problem.

APPEALS

The law allows either party to appeal the decision of the first instance misdemeanor judge. **An appeal by the perpetrator halts the implementation of LPDV protective measures and places the victim at risk of further violence.** The immediate enforcement of protective measures is crucial to victim safety because these measures are often 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. In its List of Issues, the U.N. Human Rights Committee requested the government clarify whether a perpetrator's appeal of protective measures under the LPDV automatically stays or suspends execution of all protective measures, including restraining orders.¹⁰⁷ 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."¹⁰⁸ Unlike precautionary measures under the Criminal Procedure Code or precautionary measures under the Misdemeanor Act, which are not stayed pending appeal,¹⁰⁹ the Misdemeanor Act currently states that an "appeal timely submitted by the person empowered prolongs the execution of the verdict."¹¹⁰ In other words, the Misdemeanor Act states that an appeal postpones enforcement of LPDV protective measures.

Adopt a precautionary approach for victims of alleged domestic violence, which provides for the continued implementation of protection orders during the consideration of an appeal against such an order.

- U.N. CEDAW Concluding Observations, July 24, 2015, ¶19.

¹⁰² Interview with Misdemeanor Judges, June 4, 2014; Interview with NGO, June 2, 2014; Interview with CSW, June 6, 2014.

¹⁰³ Interview with Misdemeanor Judges, June 4, 2014.

¹⁰⁴ Interview with Misdemeanor Judges, June 4, 2014; Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

¹⁰⁵ Interview with Misdemeanor Judges, June 4, 2014.

¹⁰⁶ Interview with Doctor, June 10, 2014.

¹⁰⁷ *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, 2013, U.N. Doc. CCPR/C/HRV/Q/3, ¶11. CEDAW also expressed concern over the tolling of a protective order when the offender files an appeal. *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Croatia*, Committee on the Elimination of Discrimination against Women, July 24, 2015, U.N. Doc. CEDAW/C/HRV/CO/4-5, ¶18(f).

¹⁰⁸ *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, ¶117.

¹⁰⁹ Criminal Procedure Code, Art. 98(7); Misdemeanor Act, Art. 130(8).

¹¹⁰ Misdemeanor Act, Art. 191 (3).

URGENT PROTECTIVE MEASURES AND PRECAUTIONARY MEASURES

The LPDV's current language presents a barrier to victims seeking urgent protective measures in emergencies.

The LPDV's standard of "direct threat to life" is difficult to demonstrate and creates a serious barrier to obtaining these measures.¹¹¹ Lawyers reported that they encounter difficulties obtaining an emergency protection order under this standard, because the law requires circumstances that directly endanger life. They explained 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. Moreover, judges have denied this lawyer urgent protective measures in the nine applications she has filed because the victim did not prove her life was in 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.¹¹²

Proposed amendments to the LPDV would change this standard requiring a direct threat to life. The proposed language allows the issuance of urgent protective measures "if there is a direct threat to *safety* of the victim or members of her family" (emphasis added). If adopted, this new language will lower the barrier for victims to obtain protection in emergency situations.

The Committee is also concerned about... the small number of protection measures issued.
- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

In regard to the urgent protective measures described above, Croatia emphasized to the U.N. Human Rights Committee that a "court must reach a decision with regard to the above-stated proposal within 24 hours at the latest."¹¹³ 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 mandated 24-hour time period.** Judicial bodies are also required to organize the misdemeanor court operations so that they can function on weekends and holidays.¹¹⁴ Some courts do comply with this requirement. But others do not, 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 agreed to meet her after work and accompany her back to the shelter.¹¹⁵

The Misdemeanor Act currently provides for six different precautionary measures that the court may order before and during misdemeanor proceedings, including prohibiting visits to a certain location or area, prohibiting coming near a person, and prohibiting contacts with a particular person.¹¹⁶ In addition, police can issue precautionary

¹¹¹ Art. 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."

¹¹² The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 61.

¹¹³ *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, ¶116 [Advance Unedited Version].

¹¹⁴ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 47.

¹¹⁵ *Id.*

¹¹⁶ Misdemeanor Act, Art. 130(2).

measures for up to a period of eight days where there is a probability of a misdemeanor having been committed.¹¹⁷ These measures can keep the offender away from the victim, can be issued immediately by the police, and are not stayed pending appeals.¹¹⁸

Similar to the Criminal Procedure Code's precautionary measures, **misdemeanor precautionary measures are not typically intended or used to protect victims.**¹¹⁹ Instead, the courts recognize the purpose of such precautionary measures as a way to ensure the defendant's presence in court and prevent the commission of new misdemeanors.¹²⁰ 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.

VIOLATIONS OF PROTECTIVE MEASURES

Violations of protective measures and punishments under the LPDV are not adequately enforced. The U.N. Human Rights Committee deplored the absence of effective follow-up, noting this gap made protective measures "largely ineffective" in Croatia.¹²¹

Best practices show that the violation of a protection order should be criminalized.¹²² 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.¹²³ Yet in practice, reports indicate that the police and courts are not always enforcing these requirements. For example, one woman received a protective measure against her husband. He violated the order, which merits imprisonment, but the police refused to respond because the jails were at capacity.¹²⁴ When the perpetrator eventually went to jail, he served only 10 of his 25 days because of the lack of jail space.¹²⁵

The Committee is also concerned about... the lack of follow-up to protection orders, rendering them largely ineffective.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

¹¹⁷ Misdemeanor Act, Art. 130(6).

¹¹⁸ *Id.*, Art. 130(8).

¹¹⁹ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 49; Interview with High Misdemeanor Court, June 5, 2014.

¹²⁰ Misdemeanor Act, Art. 130(1).

¹²¹ *Concluding Observations on the Third Periodic Report of Croatia*, Human Rights Committee, April 30, 2015, U.N. Doc. CCPR/C/HRV/CO/3, ¶15.

¹²² UN Women, "Overview and protection orders," <http://www.endvawnow.org/en/articles/600-generalites-et-ordonnances-de-protection.html>.

¹²³ LPDV, Art. 22.

¹²⁴ AZKZ, email communication with The Advocates, July 1, 2014 (on file with authors).

¹²⁵ *Id.*

VICTIM SERVICES

The Croatian government acknowledged to the U.N. Committee against Torture the need to promote economic independence of women victims of domestic violence. It noted that many victims are forced to return to their abusers, upon whom they are financially dependent.¹²⁶ On top of these financial challenges, **services in Croatia, particularly legal assistance, are not readily accessible to victims of domestic violence.**

The Committee is further concerned at reports that there are not enough adequate facilities available for women victims of such violence in the State party.... The State party should ensure that mechanisms are in place to encourage women victims of violence to come forward...and that women victims of violence obtain adequate redress, including compensation and rehabilitation.

- U.N. CAT Concluding Observations, December 18, 2014, ¶16.

LEGAL ASSISTANCE

Free legal aid is an important means of assistance for many victims of domestic violence. Victims may use free legal aid to request protective measures under the LPDV, which would otherwise cost 150 Euros through a private attorney.¹²⁷ Legal aid also helps women seeking divorce and child support, which can cost 200 Euros through a private lawyer.¹²⁸ 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] knows what to say to the institutions [to avoid] harm [to a client].”¹²⁹

Croatia’s Free Legal Aid Act entered into force in 2009 and was amended in 2011. It provides that victims have the right to legal representation in non-misdemeanor and criminal proceedings.¹³⁰ Further amendments were proposed and adopted in 2013,¹³¹ but did not bring any significant improvements for domestic violence victims.

Free legal services, however, are difficult to obtain. Despite the improvements Croatia recently made to the Free Legal Aid Act, the process to request free legal assistance is complicated.¹³² As one NGO explained, “Without a lawyer, a layperson could not fill it out and get it right.”¹³³ The interviewee added, “This is how [the state] is saving money—by complicating the procedure.”¹³⁴ The process operates as a bar to victims of domestic violence who

¹²⁶ *Consideration of Reports Submitted by States Parties under Article 19 of the Convention Pursuant to the Optional Reporting Procedure: Combined Fourth and Fifth Periodic Reports of States Parties Due in 2008: Croatia*, Committee against Torture, November 6, 2013, U.N. Doc. CAT/C/HRV/4-5, ¶145.

¹²⁷ Interview with NGO, June 2, 2014.

¹²⁸ *Id.*

¹²⁹ Interview with Lawyer, June 4, 2014.

¹³⁰ Free Legal Aid Act, Art. 5.

¹³¹ *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, ¶17-19.

¹³² Interview with NGO, June 2, 2014.

¹³³ *Id.*

¹³⁴ *Id.*

would otherwise qualify for free legal representation to file divorce proceedings or initiate their own criminal or misdemeanor matters that are not pursued by prosecutors.¹³⁵

Based on a review of protective measures under the LPDV conducted by the Gender Equality Ombudswoman, victims constitute a very small percentage of beneficiaries of legal aid and initiated only 2 percent of applications for protective measures.¹³⁶ In addition, the U.N. Human Rights Committee expressed its concern over the low numbers of women receiving legal aid.¹³⁷ The low number of victim applicants reflects the need not only to support victims with free legal aid in misdemeanor administrative and court proceedings, but raise awareness of their rights.¹³⁸

The Committee is also concerned about the small number of women benefiting from the free legal aid system...

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

Lawyers also play a critical role in interacting with state institutions on behalf of their clients. Such intervention is particularly needed when institutional practices are insensitive to women. A lawyer recalled how a victim might be sheltered in Zagreb, but is asked to visit a CSW in another city.¹³⁹ The lawyer calls the CSW to explain the situation and request a change in venue.¹⁴⁰

But women who are unrepresented by lawyers may face obstacles advocating for themselves before institutions. A lawyer described the damaging effects that can occur when women lack representation:

...when I speak with women, I see the damage: institutions do not understand the situation of the woman, because she feels unprotected...the center does not understand there's no equality between her and the violent husband, because they are speaking to them as though they are equal...[The women] lose confidence in institutions, because they are not feeling protected.¹⁴¹

While the Croatian Bar Association has begun providing pro bono attorneys, this representation does not fill the need. One challenge the current pro bono model faces is finding lawyers who will commit to cases that may span years; for example, the division of marital assets can last seven to fifteen years, including appeals.¹⁴² Another interviewee remarked that although the Croatian Bar Association sets a minimum number of pro bono hours, there are not enough lawyers willing to fulfill this requirement.¹⁴³ In other rare cases, pro bono attorneys have requested reduced payment from the victims for their services in a reduced amount, requiring the intervention of an NGO to reassign a new lawyer.¹⁴⁴

¹³⁵ *Id.*

¹³⁶ Interview with Gender Equality Ombudswoman, June 3, 2014. The Gender Equality Ombudsperson's 2013 Annual Report states that 203 women victims of family violence filed an application for legal aid, out of a total of 5,476 beneficiaries. Ombudsperson for Gender Equality, *Annual Report 2013*, March 2014, 27.

¹³⁷ *Concluding Observations on the Third Periodic Report of Croatia*, Human Rights Committee, April 30, 2015, U.N. Doc. CCPR/C/HRV/CO/3, ¶ 15.

¹³⁸ Interview with Gender Equality Ombudswoman, June 3, 2014.

¹³⁹ Interview with Lawyer, June 4 and 9, 2014.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Interview with NGO, June 2, 2014.

¹⁴³ Interview with CSW, June 6, 2014.

¹⁴⁴ Interview with NGO, June 2, 2014.

SHELTER FUNDING

In Croatia, shelters face challenges in ensuring sufficient numbers of beds, as well as serious problems with consistent and adequate funding. The Council of Europe Taskforce Recommendations require 428 shelter spaces for victims of domestic violence based on Croatia’s population.¹⁴⁵ Croatian shelters and state, church and city homes, however, only provide 267 spaces.¹⁴⁶ In its response to the U.N. Human Rights Committee’s request for information,¹⁴⁷ Croatia indicated that there are 10 state homes, also referred to as safehouses, which have contracted with the Ministry of Social Policy and Youth and provide shelter to victims.¹⁴⁸ Croatia further indicated that there were seven autonomous women’s shelters that received support from the Ministry of Social Policy and Youth.¹⁴⁹ 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.¹⁵⁰ The Croatian government did not provide an explanation to the United Nations on why it provides far less funding to shelters that serve more than twice as many clients as safehouses. In fact, state homes and autonomous women’s shelters have virtually the same number of beds: state homes have 141 beds, and autonomous women’s shelters have 142 beds.¹⁵¹ These spaces are not enough, however, and both the U.N. Human Rights Committee and CEDAW expressed concern over the insufficient numbers of shelters for domestic violence victims.¹⁵² In its report to the Human Rights Council, the Croatian government simply noted that “shelters for women and children who are the victims of domestic violence continue to be financed” without further reference to the shortages for autonomous shelters.¹⁵³

[T]he Committee is concerned about the insufficient number of shelters for victims of domestic violence.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

One reason for the low numbers of women staying in state homes is because their locations are not confidential. Women have reported they do not feel safe given the state homes’ addresses are public.¹⁵⁴ In fact, a state home

¹⁴⁵ *Country Report 2013: Reality Check on European Services for Women and Children Survivors of Violence*, Women Against Violence Europe (2014), 65.

¹⁴⁶ *Id.*

¹⁴⁷ *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.

¹⁴⁸ *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.

¹⁴⁹ *Id.*, ¶99.

¹⁵⁰ *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].

¹⁵¹ Interview with Ministry for Social Policy and Youth, June 5, 2014.

¹⁵² *Concluding Observations on the Third Periodic Report of Croatia*, Human Rights Committee, April 30, 2015, U.N. Doc. CCPR/C/HRV/CO/3, ¶15; *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Croatia*, Committee on the Elimination of Discrimination Against Women, July 24, 2015, U.N. Doc. CEDAW/C/HRV/CO/4-5, ¶18(g).

¹⁵³ *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21*, Human Rights Council, February 9, 2015, U.N. Doc. A/HRC/WG.6/22/HRV/1, ¶52.

¹⁵⁴ Interview with NGO, June 2, 2014.

was compelled to send a woman to an autonomous shelter after one week, because her husband learned the location of the safehouse.¹⁵⁵ Another reason for low residency numbers may be due to delays in entering the safe house. One safe house acknowledged some women must wait five to ten days before entering, during which time they may decide not to stay there.¹⁵⁶ One state home receives more funding than all seven autonomous shelters combined,¹⁵⁷ but it is located far outside the city center, deterring many women who need or desire to be closer to the city.¹⁵⁸

State homes create additional barriers for women seeking immediate shelter. A victim can only enter a state home with a referral from the CSW or police.¹⁵⁹ Even if a victim obtains the referral, a state home 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 provide the safehouse with the results from proscribed medical tests.¹⁶⁰ Despite the benefits autonomous shelters offer, authorities do not proactively send women to them; as a result, one autonomous shelter has taken the step to inform police and CSWs whenever they have space available.¹⁶¹

Government funding for shelters is often delayed – sometimes by months at a time – and reduced from the amount originally 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.¹⁶² At least one safe house in a major city has closed due to funding constraints.¹⁶³

Ensure the availability of a sufficient number of shelters with adequate resources.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

Changes made in 2013 by the Ministry for Social Policy and Youth (“Ministry”) resulted in some improvements, and it now provides three-year contracts in an effort to allow autonomous shelters to operate with greater financial security. As described below, however, conditions attached to the funding reduce shelters’ autonomy and their 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 a portion of the 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 solution. Instead, longer-term funding should be established at the national, county, and city level to ensure the continuing operation and expansion of shelters. In addition, there is a need for Ministry, county and city level authorities to current Ministry funding was available for shelters through 2015 but the Ministry delayed its commitment to renew past 2015. Instead, the Ministry offered shelters per-bed based funding and 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

¹⁵⁵ *Id.*

¹⁵⁶ Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

¹⁵⁷ Interview with NGO, June 2, 2014.

¹⁵⁸ Interview with Gender Equality Ombudsperson, June 3, 2014; Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

¹⁵⁹ Interview with Home for Adult and Child Victims of Violence, June 10, 2014; Interview with NGO, June 2, 2014.

¹⁶⁰ Interview with NGO, June 2, 2014.

¹⁶¹ *Id.*

¹⁶² AZKZ, *Securing the Shelters: Activities Update*, September 28, 2011 (summary, on file with authors)

¹⁶³ Interview with NGO, June 2, 2014.

women’s shelters, abruptly withdrew its financial support for 2015. It instead published a call for proposals for projects dealing with domestic violence, with the intention of financing 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 regard to shelter provision. One NGO stated, “For every woman, we cannot guarantee she can stay in the shelters for the entire period she is entitled to.”¹⁶⁴

Following the November 2015 elections that failed to produce a majority elected party, the government was in political turmoil for several weeks as it attempted to create coalitions among parties and move forward.¹⁶⁵ Although the Ministry of Social Policy and Youth intended to publish a tender for three-year (2016-2018) shelter funding in November, it did not publish it until December 12, 2015 pending the resolution of the government party issues.¹⁶⁶ The deadline for proposals was January 11, 2016, placing autonomous shelters again in the difficult position of severe funding shortages until money is awarded.¹⁶⁷ One director of an autonomous shelter stated they discussed salary cuts and planned to ask the city to pay their electricity to get through this period.¹⁶⁸

The new Ministry funding for 2016-2018 has two critical changes that will impact shelter operations. First, the maximum funding a shelter can receive is reduced significantly to just 75 percent of what it was during the previous period.¹⁶⁹ Under the 2013-2015 funding scheme, a shelter could receive a maximum of 530,000 kunas; under the 2016-2018 funding scheme, however, the maximum amount a shelter can receive is 400,000 kunas.¹⁷⁰ It is again, unclear from where or how shelters are expected to make up the difference in funding. As of January 26, 2016, the City of Zagreb and Zagreb County had still not published their tenders for the year;¹⁷¹ even when they do, it is not expected they will provide more than the expected 30 percent from the city and 13% from the county.

Second, the Ministry requires all funded shelters to obtain a license that shows the shelter fulfills minimum standards for social services.¹⁷² Under the licensing structure, a two-person state commission will be authorized to enter and inspect licensed shelters for purposes of evaluating its qualifications on an annual basis.¹⁷³ The commission will also be authorized to inspect on an ad hoc basis when, for example, a complaint is alleged against the shelter’s standards.¹⁷⁴ This inspection requirement creates the potential for abusers to exploit the confidential nature and operations of many shelters by lobbying false complaints.¹⁷⁵

¹⁶⁴ Interview with NGO, June 2, 2014.

¹⁶⁵ See Jess McHugh, *Croatia Parliament Elections 2015 Results: Power Split Among Top Parties After First Contest Since Joining EU, Preliminary Polls Project*, International Business Times, Nov. 8, 2015.

¹⁶⁶ AZKZ, email communication with The Advocates, February 13, 2013 (on file with authors).

¹⁶⁷ *Id.*

¹⁶⁸ AZKZ, personal communication with The Advocates, November 24, 2015 (on file with authors).

¹⁶⁹ AZKZ, email communication with The Advocates, February 13, 2013 (on file with authors).

¹⁷⁰ *Id.* Even during the 2013-2015 financing period, the shelter received 525,000 kunas, or 27 percent of their funding and still 3 percent short of the expected 30 percent. *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

In one case, an abuser complained that his children did not have food to eat in one of the licensed shelters, causing the Ministry to enter and inspect the shelter. The allegations were untrue, and the children were well-fed.¹⁷⁶ In addition, the new licensing inspection requirements will mean “an end to confidentiality and secret address[es].”¹⁷⁷ As described above, the confidential address of these shelters is a critical safety factor for many women fleeing violent and potentially lethal abusers. One autonomous shelter is seeking to protect the secret location of its shelter and avoid on-site government inspections by providing the commission with floorplans, photographs, and the opportunity to interview shelter clients at its public counseling center.¹⁷⁸ If the government does not agree with this arrangement, however, the shelter director stated, “we might have to close the shelter this year or at least lose the [Ministry] funding, but I don’t think we can find a replacement for that.” Closure would increase the danger for numerous victims of violence, as this is a shelter that provides safe refuge to forty to sixty women and children per year in a major city.

Provide adequate, secure and autonomous funding to shelters and support services for victims of violence against women.

- U.N. CEDAW Concluding Observations, July 24, 2015, ¶19.

After a shelter or safehouse stay, women still face housing challenges. While subsidized public housing is available in Zagreb, applicants must meet onerous requirements to qualify. Applicants must be able to demonstrate permanent residence in Zagreb for a minimum of ten years,¹⁷⁹ effectively excluding women living in the rest of Croatia. As one state home employee stated, “there are so many people coming to Zagreb for a better life.”¹⁸⁰ Victims of domestic violence can qualify for housing, but must produce a court decision documenting the violence within the past year.¹⁸¹

FAMILY LAW

Croatia’s Family Law governs, among other things, marriage and the relations of parents and children.¹⁸² An amended Family Law entered into force on September 1, 2014; however, the Constitutional Court of Croatia suspended this 2014 Family Law because of several challenges to the legislation. Pending the Court’s decisions on these challenges, the previous Family Law remained in effect.¹⁸³ In 2015, the government adopted another new Family Law, which reportedly contains provisions that are detrimental to victim safety, similar to those provisions currently in effect. The newest and current Family Law entered into force on November 1, 2015.

Croatia’s new Family Law places victims and their children at risk of further violence and contains several dangerous provisions.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² Family Law, Art. 1.

¹⁸³ The previous Family Law contained several provisions that diminish victim safety, such as mediation in the divorce process and penalizing victims whose children witness domestic violence. 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.

HARMFUL PROVISIONS IN THE NEW FAMILY LAW

MANDATORY MEDIATION IN DIVORCE CASES

The new 2015 Family Law now grants authority to the CSW to determine whether mediation will be used in all cases. The law, however, makes no reference to domestic violence in these cases.¹⁸⁴ **In cases with no pending claims of domestic violence or where CSW staff fail to properly screen for domestic violence, there is great risk that the victim could still be compelled to participate in mediation against her perpetrator.** CSW staff, who routinely conduct mediations, have not typically screened clients for domestic violence nor have they informed victims of their right to decline mediation in the presence of their perpetrator.¹⁸⁵ As a result, many cases of domestic violence are 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 a case involving 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 through mediation. To the extent mediation in the divorce context is geared toward reconciling the family, the mediation itself can be dangerous if the perpetrator still poses a risk to the victim.

TRAVEL AND MOVEMENT RESTRICTIONS

The Family Law requires a parent to obtain the approval of the other parent before leaving the city of residence. This provision can be dangerous for victims of domestic violence. If a victim is unable to go to a shelter in her city because it is full or there is no shelter in her city, she is trapped unless she initiates contact with the abuser to get his permission to leave.¹⁸⁶ 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. Given that the risk of lethality escalates when a victim separates from her abuser, forcing contact with the abuser greatly increases the risk of harm to victims.

MANDATORY COOPERATION IN RAISING CHILDREN

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. The language of Article 171 poses the risk, however, that women in Croatia may lose custody of their children, a harmful consequence that women victims have experienced in many countries when their children have witnessed domestic violence. In addition, the potential risk of losing their children can inhibit women from coming forward to report domestic violence.

Strengthen the legal framework in order to reduce the adverse effects affecting victims of domestic violence, in particular women.

- Angola, Working Group on the Universal Periodic Review, July 20, 2015, ¶99.27

¹⁸⁴ Family Law, Art. 332.

¹⁸⁵ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 78.

¹⁸⁶ Family Law, Art. 100; AZKZ, email communication with The Advocates, June 14, 2013 (on file with authors).

CHILD CUSTODY AND VISITATION

Some family judges have displayed reluctance to restrict the visitation rights of fathers who are violent toward their children's mothers. A lawyer described how they request the court deny a visitation period when they see a risk to their client's safety.¹⁸⁷ Some judges will not grant this request because, unless the father has abused the child.¹⁸⁸ In practice, judges routinely overlook the safety of the mother in favor of the father's right to see his child. One victim recounted the traumatic experience she endured during her divorce hearing. Her husband beat her on the head while she was pregnant, kicked her on her back while she was holding their baby, and threatened her with an axe.¹⁸⁹ He told her that his friends' sons would have sex with their daughter when she grew up.¹⁹⁰ When the judge asked her why she did not want the father to see their child, she explained the violence and the danger she feared for her and her child's lives.¹⁹¹ She recalled the family judge's retort:

'So what? That was before.' I looked at him and my lawyer, and she couldn't believe it. We are talking about violence and everything....he said that my problem is that I need to go deal with it over coffee and not in a court. All the time, the judge was saying that he is the father of the baby, and he has rights. He also said he would like to slap us both. 'Why did you both even get married?'I didn't expect that. I was crying, because all the process was against me.¹⁹²

The judge instructed the court reporter not to type anything he was going to say to her in the hearing, so none of their exchange was documented in the court record.¹⁹³

When family judges do issue orders on visitation, they rely on the opinion of the CSW to inform them whether such visitation should be supervised.¹⁹⁴ As described in the next section, however, Croatia lacks adequate supervised visitation centers.¹⁹⁵

CONTACT WITH CHILDREN

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 \$4,200) and the possibility of prison sentences for not complying with the court's decision regarding parenting time.¹⁹⁶ Forced child visitation in domestic violence cases can put both the victim and the children at risk of experiencing further violence and even murder.¹⁹⁷ While some family judges do take into account domestic violence when determining custody and visitation, other family judges disregard it.¹⁹⁸

Furthermore, visitation facilities with adequate security and supervision are rare in Croatia.¹⁹⁹ In the capital city of Zagreb, there is only one institution that provides supervised visitation with a security officer and policies that

¹⁸⁷ Interview with Lawyer, June 4 and 9, 2014.

¹⁸⁸ *Id.*

¹⁸⁹ Interview with Lawyer, June 4 and 9, 2014; Interview with Victim, June 6, 2014.

¹⁹⁰ *Id.*

¹⁹¹ Interview with Victim, June 6, 2014.

¹⁹² *Id.*

¹⁹³ *Id.* The situation was further aggravated since the CSW failed to appear. *Id.*

¹⁹⁴ Interview with Family Law Judge, June 3, 2014.

¹⁹⁵ Interview with CSW, June 6, 2014.

¹⁹⁶ Family Law, Art. 417(3).

¹⁹⁷ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 83.

¹⁹⁸ *Id.*, 86.

¹⁹⁹ *Id.*, 83.

require the parties to arrive and leave 15 minutes apart.²⁰⁰ For women who are afraid of their perpetrators and want to protect themselves and their children from further attacks, the Family Law could be used against them when they are trying to protect themselves and their children.²⁰¹

OTHER PROBLEMS WITH FAMILY LAW IMPLEMENTATION

Divorce proceedings in Croatia are subject to lengthy delays. Division of marital assets can take several years to complete during a divorce proceeding.²⁰² Parties often reside together until this process is complete, placing women at continued risk of domestic violence and threats.²⁰³ Given the maximum duration for protective measures that protect her safety is two years, the lengthy delays of marital asset division leave women unprotected and vulnerable to abuse.

Family judges also exhibit harmful attitudes and a lack of sensitivity toward victims of domestic violence during proceedings. One lawyer recounted how family judges' response to domestic violence in divorce varies. In the worst cases, judges have told clients that both parties are responsible.²⁰⁴ When children have witnessed domestic violence, judges have told victims they are responsible as mothers for not protecting their children from the violence.²⁰⁵ When the lawyer challenged these judges, they retorted the Family Law obliges both parties to protect the children and domestic violence is not an excuse for the mother's failure to protect her child.²⁰⁶ The woman described above, whose husband beat her and endangered their baby, recalled the traumatizing experience she suffered before the family law judge: "I was crying, because all the process was against me. I didn't expect that."²⁰⁷

Some judges believe that women abuse the system to gain advantage. One family judge estimates that 30% of women lie about domestic violence in divorce cases to strengthen their position.²⁰⁸

Step up its awareness-raising measures among the police, judiciary, prosecutors, community representatives, women and men on the magnitude of domestic violence and its detrimental impact on the lives of victims.

- U.N. Human Rights Committee Concluding Observations, December 18, 2014, ¶15.

²⁰⁰ Interview with Home for Adult and Child Victims of Violence, June 10, 2014.

²⁰¹ AZKZ, email communication with The Advocates, Sept. 21, 2013 (on file with authors).

²⁰² Interview with Police, June 3, 2014; Interview with NGO, June 2, 2014.

²⁰³ Interview with Police, June 3, 2014.

²⁰⁴ Interview with Lawyer, June 4 and 9, 2014.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Interview with Victim, June 6, 2014.

²⁰⁸ Interview with Family Law Judge, June 3, 2014; Misdemeanor judges also shared their colleagues' perceptions that some women misuse the law and lie about domestic violence in divorce to gain advantage. Interview with Misdemeanor Judges, June 4, 2014.

CRIMINAL CODE

Ensure that cases of domestic violence are thoroughly investigated by the police, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

Criminal prosecution of domestic violence is critical to holding offenders accountable and communicating a message of zero tolerance for this violence to the public. When the state does not conduct effective investigations or impose appropriate sanctions for acts of domestic violence, it sends the message that offenders will go unpunished. The ramifications of ineffective criminal prosecution are aggravated even further in Croatia because victims do not have recourse to LPDV protection after a criminal decision.

In 2011, the Croatian Parliament amended the 2008 Criminal Code, and amendments entered into force in 2013. Article 215A of the Criminal Code prohibiting domestic violence was eliminated,²⁰⁹ and domestic violence was prosecuted as bodily injury,²¹⁰ threats,²¹¹ or sexual attacks.²¹² The 2013 law forced prosecutors to rely on bodily injuries and threat provisions, which effectively excluded long-term domestic violence for which victims did not have proof of injuries or acts of coercive control that do not rise to criminal-level threats.²¹³ As a result, the 2013 Criminal Code did not recognize most domestic violence as a criminal level offense, thus relegating these offenses to the misdemeanor system.²¹⁴ In addition, offenders whose cases were still pending under the previous Criminal Code were able to escape prosecution because of the new law.²¹⁵

Following concerted advocacy by women's NGOs and recommendations from UN human rights bodies, the Croatian Parliament amended the Criminal Code in 2015 to reinsert a crime of domestic violence. The government of Croatia is to be commended for reincorporating a specific crime of domestic violence, an important step and one that aligns with international norms.

Still, potential problems remain with the new Criminal Code's implementation. Under both the 2008 and 2013 Criminal Codes, **police have displayed an inclination for charging domestic violence as a misdemeanor, even when there is severe violence or a high risk of lethality.** The Misdemeanor Law's broad definition of domestic

²⁰⁹ Art. 215A broadly punished any violent, abusive or particularly insolent conduct that put another family member into a "humiliating position."

²¹⁰ 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).

²¹¹ *Id.*, Art. 139.

²¹² *Id.*, Art. 154; Interview with prosecutor, June 10, 2014.

^{213,213} *Written Statement to the Human Rights Committee, The Advocates for Human Rights and Autonomous Women's House Zagreb*, 113th Sess. of the Human Rights Committee, March 16, 2015 to April 2, 2015, ¶13. Coercive control in domestic violence is generally defined as a continuing pattern in which offenders use physical violence, intimidation, and isolation. 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*, (Quebec: Les Presses de l'Université du Québec, 2012), 7.

²¹⁴ Interview with Lawyer, June 4, 2014.

²¹⁵ 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. Criminal Code, Art. 3. Yet, there is no parallel crime in the new Criminal Code after the removal of Article 215A. Valentina Andrasek, email communication with Rosalyn Park, February 13, 2013 (on file with authors). 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.

violence in also increases the likelihood of police choosing to use that law.²¹⁶ In one case spanning both the former Criminal Code (2008) and subsequent Criminal Code (2013), police brought misdemeanor charges against an abuser seven times.²¹⁷ The husband beat her head, punched her face, and kneed her in the chest. He threatened to cut her with an axe and kill her multiple times. Their daughter and son were also victims of his abuse. The women's lawyer described two of the recent incidents:

In September 2012, he beat her with his fists on her head, then he strangled her, and when she started to lose consciousness, he stopped. Afterward, when she regained consciousness from the strangulation, he said he would help her by throwing her from the balcony of the fifth floor from where they were living. He attacked her in 2013 by saying he would kill her...he threw on the floor some flammable liquid, and he lit his lighter. He said, "I will kill you. I will kill myself. I will put you in flames."²¹⁸

Despite the severe violence, multiple threats to kill, and repeated violations of protective measures, the state continued to sentence him under the misdemeanor law to suspended sentences, short jail terms, or fines.²¹⁹ In the last incident, the perpetrator threatened her, "I will kill you. I will surely kill you. I will put my needle into you and infect you with Hepatitis C."²²⁰ The police officer, who heard everything, did nothing. The women's attorney expected the judge to impose jail for this latest violence, but here merely issued a fine.²²¹

[T]he Committee notes with concern the inconsistent application of penalties on account of the fact that domestic violence can also be defined as a misdemeanor.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

Steps must be taken to ensure prosecutors vigorously and timely pursue prosecution of domestic violence, including in cases when victims do not want to testify.²²² As mentioned in the 2012 report, *Implementation of Croatia's Domestic Violence Legislation*, prosecutors demonstrate great reluctance in initiating criminal prosecutions for domestic violence, a practice further aggravated by their tendency to drop cases when the victim recants or invokes her right not to testify against her spouse.²²³ Given that both the new domestic violence article and the 2008 domestic violence article are similar, the risk remains that prosecutors will follow their practice as in the past.

The Committee is concerned about reports that cases are not investigated, that suspects are not prosecuted and that perpetrators receive lenient sentences.

- U.N. Human Rights Committee Concluding Observations, April 30, 2015, ¶15.

²¹⁶ Interview with Lawyer, June 4 and 9, 2014.

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ Interview with Lawyer, June 4 and 9, 2014.

²²⁰ *Id.*

²²¹ *Id.*

²²² The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 37-41.

²²³ *Id.*, 5.

POST-CONVICTION SAFETY MEASURES

The 2011 amendments, which entered into force in January 2013, 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 order²²⁴ (up to five years) and eviction²²⁵ 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.

Implementation of these safety measures has been slow; 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 ruling as of June 2014.²²⁶ A criminal lawyer explained he had not had any judges impose safety measures in his experience since the new law's entry into force.²²⁷ A prosecutor recognized the importance of safety measures in protecting victims, but regretted how rarely they were issued.²²⁸

Judges have demonstrated misperceptions over when and under what circumstances they can issue these safety measures. 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.²²⁹ This demonstrates judicial confusion on the measures available (with precautionary measures) and may explain why so few safety measures have been issued by criminal judges. A prosecutor opined that judges require aggravating circumstances, such as sexual violence or more severe physical or psychological violence, before they will issue a safety measure.²³⁰ Yet, the law only requires a risk that the perpetrator will re-offend to impose a safety measure.²³¹ As a result of judges not fully understanding these measures, victims are denied needed protections to which they are entitled under the law. As a Ministry of Interior official stated, "Right now, the gaps are in criminal procedures...they do their prison sentences and then go home. Then what happens? He goes home, and we wait for him to do it again, because we only have one eviction so far."²³²

PRECAUTIONARY MEASURES

The use of precautionary measures before and during criminal trials is especially important, in light of the *Maresti v. Croatia* decision that precludes a victim from obtaining misdemeanor LPDV protective measures after a criminal conviction.²³³ Although criminal charges and convictions may be appropriate for the perpetrator's actions, if prosecutors are not requesting and courts are not properly imposing precautionary measures to protect the victim during criminal proceedings, she is left exposed and unprotected from her perpetrator. **Yet, precautionary measures are not used as they should be, allowing perpetrators to "walk free."**²³⁴ When asked why

²²⁴ Criminal Code, Art. 73.

²²⁵ *Id.*, Art. 74.

²²⁶ Interview with Ministry of Interior, June 2, 2014.

²²⁷ Interview with Lawyer, June 9, 2014.

²²⁸ Interview with Prosecutor, June 10, 2014.

²²⁹ Interview with Lawyer, June 4, 2014.

²³⁰ Interview with Prosecutor, June 10, 2014.

²³¹ Criminal Code, Arts. 73, 74.

²³² Interview with Ministry of Interior, June 2, 2014.

²³³ 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.

²³⁴ Interview with Ministry of Interior, June 2, 2014.

precautionary measures are so rarely used during the proceedings, a Ministry of Interior official responded, “Ask the prosecutors. We were wondering the same.”²³⁵

Moreover, 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.²³⁶ 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.

Amend its criminal legislation on domestic violence to ensure the provision of expeditious protection orders for victims while criminal proceedings are pending.

- U.N. CEDAW Concluding Observations, July 24, 2015, ¶19.

Furthermore, many interviewees have described the criminal system as slow, and reaching a final ruling, including safety measures, takes a long time.²³⁷ In the one case that resulted in a safety measure of eviction, the husband was convicted of threats to kill his wife. The man, who had a misdemeanor history of domestic violence, was detained but later released with no precautionary measures.²³⁸ For a dangerous perpetrator to receive a prison sentence and safety measure at conviction, but neither detention nor precautionary measures during the criminal proceedings leading up to that punishment, is simply “not logical,” according to a ministry official.²³⁹ Moreover, this situation exposes victims to serious danger.

[P]rovide for civil protective measures that allows for both emergency, ex parte protective measures and/or long-term protective measures as appropriate.

- U.N. CEDAW Concluding Observations, July 24, 2015, ¶19.

PROBATION

The Law on Probation entered into force at the end of 2009, and the first of 12 probation offices opened in June 2011.²⁴⁰ 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.²⁴¹ Its purpose is to monitor perpetrators’ compliance with their sentences. For example, probation officers monitor prisoners on conditional release to ensure they comply with obligations, such as substance abuse treatment, psychiatric treatment, or psychosocial treatment of violent behavior.²⁴²

²³⁵ *Id.*

²³⁶ Criminal Procedure Code, Art. 98(2)(1 – 8).

²³⁷ Interview with Ministry of Interior, June 2, 2014; Interview with Lawyer, June 4 and 9, 2014.

²³⁸ Interview with Ministry of Interior, June 2, 2014.

²³⁹ *Id.*

²⁴⁰ Dijana Šimpraga, et al., “Probation in Europe: Croatia” (2014), 7; Interview with Probation Officers, June 4, 2014; Interview with Professor, June 10, 2014.

²⁴¹ Interview with Probation Expert, June 10, 2014.

²⁴² Interview with Probation Officers, June 4, 2014.

UNDERUTILIZED AND UNDER-RESOURCED

The probation system is underutilized and currently only monitors those with criminal convictions, leaving unmonitored both conditional convictions without protective supervision and misdemeanor punishments.²⁴³ One interviewee described the absence of probation in the misdemeanor system: “It’s like a ghost. It does and it doesn’t exist.”²⁴⁴ Because most domestic violence is prosecuted as a misdemeanor, probation does not apply to the vast majority of domestic violence offenders.²⁴⁵ In fact, offenders may repeat the violence multiple times before they are criminally charged and come under the supervision of probation. Yet, the need for probationary oversight of misdemeanor offenders is great. As an attorney stated, perpetrators continue perpetrating violent acts even after multiple misdemeanor convictions.²⁴⁶ One probation officer described how one man beat his wife three times, each of which was treated as a misdemeanor; it was not until the fourth time that he was charged criminally and received a suspended sentence with protective supervision.²⁴⁷ In another case, a husband pulled his wife’s hair, beat her with his fists and kicked her. He was convicted for multiple misdemeanors before receiving a criminal punishment of a suspended sentence and probation for five years. In both cases, neither offender has reoffended while on probation.²⁴⁸ A misdemeanor judge also agreed it would be more practical for probation to assume oversight of the misdemeanor protective measures.²⁴⁹

Even when the state prosecutes domestic violence as a crime, probation is still underused. Probation officers also conduct risk assessments of perpetrators, which courts and prosecutors could use to assess penalties as well as determine measures to protect victims. Despite this potential, individuals working in probation report that the use of probation in sentences is decreasing, despite a rise in conditional sentences.²⁵⁰ Others report that the probation system is not functioning, especially with respect to domestic violence cases.²⁵¹

The probation office is also under-resourced with insufficient staff and resources to meet its current mandate. In 2013, the probation system supervised 2,909 perpetrators with approximately 70 staff,²⁵² but an expert estimated that 40 additional staff is actually needed.²⁵³ There are reports of the system not having enough cars to monitor all perpetrators under their supervision, requiring some probation officers to share vehicles with the prison system.²⁵⁴ Each probation office has its own information database, but as of 2014, databases were not shared across probation offices; a probation officer must request reports from offices in other locations.²⁵⁵

CHALLENGES IN PROBATION

Interviewees noted challenges with probation in domestic violence cases. For example, probation officers acknowledged problems with enforcement of psychosocial therapy ordered as a special obligation.

²⁴³ Interview with Probation Expert, June 10, 2014.

²⁴⁴ Interview with NGO, June 2, 2014.

²⁴⁵ *Id.*

²⁴⁶ Interview with Lawyer, June 4 and 9, 2014.

²⁴⁷ Interview with Probation Officers, June 4, 2014.

²⁴⁸ *Id.*

²⁴⁹ Interview with Misdemeanor Judges, June 4, 2014.

²⁵⁰ Interview with Probation Officers, June 4, 2014.

²⁵¹ Interview with Ministry of Interior, June 2, 2014; Interview with NGO, June 2, 2014.

²⁵² Interview with Probation Officers, June 4, 2014.

²⁵³ Interview with Probation Expert, June 10, 2014.

²⁵⁴ *Id.*

²⁵⁵ Interview with Probation Officers, June 4, 2014.

A criminal judge can order the offender undergo special obligations with a suspended sentence with supervision, including psychosocial therapy to eliminate violent behavior.²⁵⁶ Probation officers noted that judges' rulings explicitly revoke a suspended sentence in the event of another offense, but are silent on the consequences of non-compliance with treatment.²⁵⁷ In addition, when offenders do not complete treatment, judges typically give them a second chance.²⁵⁸ A probation officer concluded, "He goes two times, he stops again. So it's really a process to end up in prison....I really don't remember a case where someone would end up in prison for not fulfilling this [requirement]."²⁵⁹

One probation officer described a case where the abuser continued to beat his wife despite being on probation. The husband threatened his wife in front of the children:

The man came regularly here to the probation office and was undergoing regular treatment and was coming here sober and cleaned up, but his wife was calling this office often and saying he was sober and cleaned up except when he has to go to treatment--he sobers up 2 days before, but afterward, he drinks and continues to fight and attack her....when he came here, I told him about all the facts that his wife informed me about. He was denying it all, saying it was not true. I advised the woman to call the police every time, when he was either drinking or attacking. It happened 2-3 times, and she called the police, and misdemeanor indictments were made, and he was also prosecuted under Criminal Code for threats and convicted of threats, and his first suspended sentence was revoked....Now he is doing prison time, and we are waiting for him to be released.²⁶⁰

In this case, new allegations of domestic violence require a prompt response to convicted offenders. While the probation officers referred the woman to police, it remains unclear whether probation is also consistently referring victims to advocacy services in these cases. In addition, this case underlines the gap in communications between probation, law enforcement, the judiciary, and prosecutors. In this case, the burden fell primarily upon the woman to pursue accountability herself by calling the police.

Furthermore, as described below, interagency cooperation with the probation system is inadequate.

INTER-AGENCY COOPERATION

In 2010, several ministries signed an inter-ministerial agreement to promote cooperation on violence against women.²⁶¹ The Croatian government recognized that the high rates of femicides by intimate partners demanded greater coordination among all sectors.²⁶² One national team functions as an umbrella to 20 county teams.²⁶³ Communications are handled primarily through telephone and internet, with four national team meetings per year.²⁶⁴ The objective is to establish a network of actors who can ask why problems are happening.²⁶⁵ County

²⁵⁶ Criminal Code, Art. 70.

²⁵⁷ Interview with Probation Officers, June 4, 2014.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *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, ¶¶106, 131.

²⁶² *Consideration of Reports Submitted by States Parties under Article 19 of the Convention Pursuant to the Optional Reporting Procedure: Combined Fourth and Fifth Periodic Reports of States Parties Due in 2008: Croatia*, Committee against Torture, November 6, 2013, U.N. Doc. CAT/C/HRV/4-5, ¶144.

²⁶³ Interview with Ministry of Social Policy and Youth, June 5, 2014.

²⁶⁴ Interview with Ministry of Interior, June 2, 2014; Interview with Ministry of Social Policy and Youth, June 5, 2014.

teams, on the other hand, discuss specific cases.²⁶⁵ A CSW worker found the local level meetings helpful in speedily resolving cases and promoting cooperation with the police.²⁶⁷

Conversely, a doctor expressed frustration over the selection of team participants, suggesting priority goes to those who do not criticize the system.²⁶⁸ **Of note, the involvement of autonomous shelters and women's NGOs in such cooperation is low to non-existent.** Other interviewees, such as police officers, did not themselves participate in the county team nor could they confirm who did from their station.²⁶⁹

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.²⁷⁰ **Strong cooperation with other sectors, however, such as the courts and prisons, is lacking.** Probation officers lamented the courts' decreased use of probation,²⁷¹ and one expert added that judges do not request reports from probation officers as often as they should.²⁷² Information that probation officers receive from prisons and executing judges²⁷³ 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.²⁷⁴ 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.

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."²⁷⁵ 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 need to merge these efforts and amend the probation law to treat it as one system in the future.²⁷⁶

CONCLUSION

This report serves as a follow-up report to assess progress made by the Croatian government since the author's last monitoring report in 2012. Since then, the government has taken several positive measures to improve its response to domestic violence.

In 2015, the government of Croatia reincorporated the crime of domestic violence into the Criminal Code, thus addressing a gap in offender accountability that the 2013 amendments created. Still, effective implementation of the Criminal Code is required to ensure that domestic violence is appropriately pursued as a criminal-level offense

²⁶⁵ Interview with High Misdemeanor Court, June 5, 2014.

²⁶⁶ Interview with Ministry of Interior, June 2, 2014.

²⁶⁷ Interview with CSW, June 6, 2014.

²⁶⁸ Interview with GP Doctor, June 10, 2014.

²⁶⁹ Interview with Police, June 3, 2014. See also Urgent Care Doctor, June 4, 2014.

²⁷⁰ Interview with Probation, June 4, 2014.

²⁷¹ *Id.*

²⁷² Interview with Professor, June 10, 2014.

²⁷³ An executing judge is a county court judge in charge of carrying out sentences of defendants once a conviction becomes final.

²⁷⁴ Interview with Professor, June 10, 2014.

²⁷⁵ Interview with NGO, June 2, 2014.

²⁷⁶ Interview with Ministry of Social Policy and Youth, June 5, 2014.

and prosecuted even when victims withdraw their testimony. For a full explanation of these challenges, see *Implementation of Croatia's Domestic Violence Legislation*.²⁷⁷

Croatia has also created two post-conviction safety measures to address the gap created by the *Maresti* decision which renders misdemeanor and criminal cases mutually exclusive. While these are welcome changes, training is needed for systems actors to ensure these safety measures are issued and enforced effectively.

The government is currently exploring amendments to the LPDV, which would lower the bar to obtaining urgent protective measures in cases of domestic violence. If adopted, the victim would be required to show a direct threat to “safety” rather than to “life,” lowering the standard she needs to meet to merit emergency protection from an abuser.

There remain other, urgent concerns with regard to victim safety and offender accountability. Dual arrests are on the rise, with almost half of all domestic violence cases resulting in the arrest of both the victim and perpetrator. Under the LPDV, systems actors are still mandated reporters, which subjects victims to even greater risk of harm if their abuse is reported without their knowledge or consent when they seek help. Appeals by the perpetrator stop the entry into force of LPDV protective measures, thus leaving the victim unprotected against further violence and retribution until an appellate decision is rendered. Also, the LPDV still does not protect intimate partners who do not have children or a shared residence for at least three years.

The 2015 Family Law poses many concerns. The Family Law grants CSW personnel discretion to decide whether or not to use mediation in divorce, but fails to reference domestic violence in any such determination. CSW workers who are not trained to screen for domestic violence or do not understand the harms of mediation may create greater risk for victims seeking to divorce their abusive husbands. In addition, the law forces a parent to obtain the other parent’s permission before leaving the city of residence, which poses problems for victims seeking safe refuge or flight from dangerous abusers. The Family Law requires parental cooperation in child-rearing and parent-child contacts, with serious consequences for those parents who refuse such cooperation. Finally, family judges are reluctant to limit the visitation rights of fathers who use violence against their children’s mothers.

Victim services are in need of consistent and adequate funding. Legal assistance is often not accessible to victims given the complicated application procedures. Autonomous shelters’ contracts with the Ministry of Social Policy and Youth were up for renewal in 2015, and shelters face potential closure if they are not adequately funded. In addition, it is critical that autonomous shelters, which do not require referrals from CSW or police, be able to function with reliable and adequate funding.

The probation system, while relatively new, is under-resourced and under-utilized in addressing domestic violence. It has no jurisdiction over misdemeanor domestic violence cases, leaving protective measures such as psychosocial and addiction treatment, unmonitored.

Croatia has made progress by adopting and amending legislation aimed at keeping victims safe and promoting offender accountability. Continued reforms both in law and in implementation, however, are urgently needed to fully realize these goals. The Advocates for Human Rights and Autonomous Women’s House Zagreb offer the following recommendations with a view toward ending domestic violence in Croatia.

²⁷⁷ The Advocates for Human Rights, et al., *Implementation of Croatia's Domestic Violence Legislation* (2012), 37-42.

RECOMMENDATIONS

1. Amend the Misdemeanor Act to add precautionary 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.
2. 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.
3. Amend the law to ensure that LPDV protective measures remain in effect throughout the duration of any appeals process.
4. 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, a 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.
5. Adopt the proposed amendments to the LPDV to lower the standard of “direct threat to life” for the issuance of urgent protective measures to “direct threat to safety.”
6. 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.
7. 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.
8. Amend the new Family Law to exclude the provisions that do not take into account the dynamics of domestic violence. Those harmful provisions include discretionary mediation, the prohibition from leaving a city, non-compliance with a parenting agreement, and requirements to cooperate with their perpetrator.
9. Until Recommendation 8 is implemented, ensure that all CSW workers in charge of deciding on mediation are trained on the dynamics of and screening for domestic violence, as well as the harms of mediation in such cases.
10. 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.
11. Clarify and simplify the process to apply for free legal aid.
12. Train police officers, prosecutors, and judges to identify the primary aggressor and assess defensive injuries to reduce the number of dual arrests, charges and convictions of victims of domestic violence.
13. Train criminal judges, prosecutors, and police 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, which can be applied during the trial.

14. 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.
15. Promote the use and expansion of the probation system and ensure that it is supported with sufficient staff and resources.
16. 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.
17. 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.
18. 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.
19. Increase cooperation and communication with the probation system, and take steps to establish an effective role for probation in overseeing misdemeanor domestic violence cases.
20. Provide and fund mandatory and regular 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 or conducted by women's human rights NGOs.
21. Ensure the punishment of violations of protective measures and enforce punishments of offenders under the LPDV.
22. Increase the issuance of jail sentences over fines for violations of protective measure.

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