



CROATIA

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

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FOLLOW-UP TO THE PREVIOUS REVIEW

During its second Universal Periodic Review (UPR) in 2015, Croatia received a total of 167 recommendations, of which it accepted 156, some of which it considered being implemented or in the process of implementation, partially accepted six recommendations, and rejected five recommendations.¹

A significant number of the recommendations addressed the urgent need to combat widespread violence against women, including domestic violence, by improving legislation and adopting concrete measures aligned with international law and standards.² While Croatia has made considerable advances in this area since the last review, this submission highlights Amnesty International's remaining concerns in relation to the persisting challenges in the country's treatment of gender-based violence that prevent many victims from protections under the law.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

EFFORTS TO COMBAT GENDER-BASED VIOLENCE

Since the last review, Croatia has made notable progress in combating gender-based violence. In April 2018, the country ratified the Istanbul Convention,³ which entered into force in October 2018. However, the legislative, policy and institutional framework is yet to be fully harmonised with the Convention. The recently adopted measures still fall short of international standards and contain restrictive provisions that limit access to adequate rights for many victims of gender-based violence. Amnesty International is concerned that "traditional family unit" continues to be prioritised over individual rights and the safety of women, leaving many victims of gender-based violence without legal protection (more below).

Law on Protection against Domestic Violence

The new Law on Protection against Domestic Violence, which entered into force in 2018, expands the definitions of domestic violence, to include psychological and economic violence, and broadens the definition of a family to

¹ Report of the Working Group on the Universal Periodic Review, Croatia, Addendum, A/HRC/30/14/Add.1., 7 September 2015.

² A/HRC/30/14, recommendations 99.18-99.22 (Turkey, Italy, Austria, Spain, Germany), 99.25 (Czech Republic), 99.27-99.31 (Angola, Trinidad and Tobago, Indonesia, Mexico, Australia), 99.50-99.52 (Sierra Leone, Republic of Korea, Thailand), 99.58 (Norway), 99.61 (Poland), 99.82 (Israel), 99.84 (Malaysia), and 99.108-99.109 (Philippines, Brazil).

³ Council of Europe Convention on Prevention and Combating Violence against Women and Domestic Violence.

encompass unmarried intimate partners.⁴ The Law also strengthens existing misdemeanour sanctions for domestic violence, and provides additional protective measures for the survivors. Nevertheless, the scope of the Law remains limited, as it continues to exclude persons who do not have children with their partner, who do not share the same residence with the partner, or who have lived with their partner for less than three years.⁵ These restrictions are in contravention of the Istanbul Convention⁶ and leave considerable number of individuals without adequate legal protection and, in some cases, force them to privately prosecute claims against their abusers.

Furthermore, the new Law does not adequately differentiate between victims and abusers.⁷ Because of the ambiguous wording of the Law and the inadequate awareness of gender-based violence dynamics by the police and courts, victims reporting violence are often confused with the perpetrator, forced to provide statements in the presence of the perpetrator, and not fully informed about their rights.⁸ This has also led to situations where some women who report violence in their families end up being questioned and arrested as co-perpetrators,⁹ and even sanctioned, because they acted in legitimate self-defence or verbally insulted the perpetrator.¹⁰

National Strategy for Protection against Domestic Violence

In 2017 Croatia adopted a new National Strategy for Protection against Domestic Violence 2017-2022, based largely on the principles of the Istanbul Convention. The Strategy is comprehensive and envisages activities and concrete measures in the areas of prevention of domestic violence, improvement of the legislative framework, victim support, psychosocial treatment targeting the perpetrators, inter-sectoral cooperation, capacity building of experts, and public awareness. Women's organizations have expressed concerns, however, that the Strategy focuses strongly on the concept of the "conventional family", and does not adequately reflect the problem of broader gender-based violence.¹¹ Furthermore, the Strategy fails to provide guarantees for more systematic and

⁴ Law on the Protection against Domestic Violence (Zakon o zaštiti od nasilja u obitelji), Official Gazette 70/17, Article 8 (Persons to whom the law applies) and Article 10 (Domestic violence).

⁵ Neither the Law on Protection against Domestic Violence nor the Family Law recognizes these relationships as a "family" and therefore individuals in such relationships are not entitled to protections under the Law on Protection against Domestic Violence. For more discussion, see *Joint submission by Autonomous Women's House and the Advocates for Human Rights to the UN Human Rights Committee's 127th session*, Periodic review of Croatia, 30 August 2019. See also Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 115, available at https://www.prs.hr/attachments/article/2645/Izvie%C5%A1%C4%87e%20o%20radu%20Pravobraniteljice%20za%20ravnopravnost%20spolova%20za%202018.%20godinu_-_pdf

⁶ The Istanbul Convention defines domestic violence as "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim." See Council of Europe Convention on Prevention and Combating Violence against Women and Domestic Violence (Istanbul Convention), Article 3 (b).

⁷ Women are found to be overwhelmingly the victims of violence in the family, while men tend to be the perpetrators of domestic violence in 90% of all cases. See Ministry for demography, family, youth and social policy of Republic of Croatia, *Šta trebate znati o Konvenciji Vijeća Europe o sprečavanju i borbi protiv nasilja nad ženama i nasilja u obitelji*, available at: <https://mdomsp.gov.hr/istanbulska-konvencija/index.html>. See also Gender Equality Ombudsperson of the Republic of Croatia *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, pg. 87.

⁸ Human Rights House, *Human Rights in Croatia Report for 2018*, 8 April 2019, para.210-211, available at: <https://humanrightshouse.org/articles/human-rights-in-croatia-overview-of-2018/>.

⁹ Deutsche Welle, "Borba za zaštitu žena od nasilja u Hrvatskoj tek počinje", 25 November 2018. Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 115.

¹⁰ In 2015, the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) asked Croatia to abolish the practice of these dual arrests. See UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), *Concluding observations on the combined fourth and fifth periodic reports on Croatia*, para. 19, CEDAW C/HRV/CO/4-5, 28 July 2015.

¹¹ Forum, "Unatoč otporu 'obiteljaša' – Vlada usvojila Strategiju protiv nasilja u obitelji temeljenu na Istanbulskoj konvenciji", 22 September, 2017. Important to note that, at this time, Croatia does not have any other law regulating broader gender-based violence.

consistent financing of shelters and other support systems for the victims of domestic violence.¹² Shelters and similar facilities are still not available in six of the 20 administrative regions in Croatia.¹³

Prosecution of perpetrators of domestic and gender-based violence

Croatia's Criminal Code defines domestic violence as a criminal offence¹⁴ and prescribes a penalty of up to three years' imprisonment for the perpetrators. Nevertheless, official government data indicates that police and other authorities rarely recognise acts of domestic violence as such. Police and courts overwhelmingly fail to qualify violence that takes place within a family as a criminal act, and the vast majority – up to 90% - of such cases continue to be qualified as a misdemeanour.¹⁵ This systematically precludes stronger and more effective sanctions for perpetrators and protective measures for the victims, ultimately failing to effectively combat gender-based violence and reduce its recurrence.

Penalties for the criminal offense of gender-based violence are rarely awarded, with fewer than 10% of the perpetrators sentenced to imprisonment. Most perpetrators received suspended sentences or moderate fines, while protective measures tend to be applied inconsistently and in fewer cases than recommended.¹⁶ This renders many such measures ineffective and undermines the trust of the victims in the judicial system, contributing to an increasing number of unreported cases.¹⁷

Definition of rape

Croatia's current legislation does not effectively criminalise rape.¹⁸ The Criminal Code distinguishes between two separate offences – the offence of rape and the offence of “sexual intercourse without consent,” which carries lower penalties.¹⁹ This has had highly detrimental effect on the prosecution of rape, with most cases of marital rape and other cases of rape qualified and prosecuted as “sexual intercourse without consent” and perpetrators sentenced to minimum penalties of six months or less. The penalties for the perpetrators of rape are similarly low. More than 90% of cases of rape have resulted in sentences of one year or less, and in some cases the perpetrators were released early for good behaviour.²⁰

In September 2019, the government announced a public consultation period on the proposed amendments to the Criminal Code that would abolish the separate offence of “sexual intercourse without consent” and qualify this act as a rape, punishable by three to ten years' imprisonment.²¹ Amnesty International welcomes this development.

¹² Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 189.

¹³ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 189.

¹⁴ Criminal Code of the Republic of Croatia (Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17), Article 179a.

¹⁵ Ministry for demography, family, youth and social policy of the Republic of Croatia, *Šta trebate znati o Konvenciji Vijeća Europe o sprečavanju i borbi protiv nasilja nad ženama i nasilja u obitelji*.

¹⁶ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 119, and p. 93., respectively.

¹⁷ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, pp. 94-95.

¹⁸ Amnesty International, “Women across Europe failed by outdated rape legislation”, 24 November 2018, EUR 01/9452/2018. The provisions on rape and “sexual intercourse without consent” in Croatia were also criticized by the CEDAW Committee in 2015, who had urged the state to harmonise its Criminal Code with international law and standards in this area.

¹⁹ Criminal Code of Republic of Croatia (Kazneni zakon) as amended in 2012, Art 152(1). While the definition of rape requires the lack of consent to be accompanied by force, the amendments to the Code in 2013 had introduced a lesser offence of “sexual intercourse without consent”, carrying lower penalties of between six months and five years (as opposed to 1-10 years for rape).

²⁰ Novi list, “Zemlja za manijake: Riskantnije je ukrasti auto nego silovati ženu u Hrvatskoj,” 7 September 2019, available at: <http://www.novolist.hr/Vijesti/Hrvatska/ZEMLJA-ZA-MANIJAKE-Riskantnije-je-ukrasti-auto-nego-silovati-zenu-u-Hrvatskoj>

²¹ Hrvatska Radio Televizija, “Zakonska definicija silovanja bazirat će se na izostanku pristanka”, 12 September 2019, available at: <https://vijesti.hrt.hr/541780/zakonska-definicija-silovanja-bazirat-ce-se-na-izostanku-pristanka>.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES AND INFORMATION

Women's access to sexual and reproductive health service and information, including contraception and abortion, is seriously constrained in Croatia. Although abortion on request in early pregnancy remains legal,²² it is increasingly difficult to access. Widespread refusals by medical practitioners to perform abortions on the grounds of conscience, prohibitively high cost of the service and uneven regional distribution of authorised public hospitals where the staff is willing to perform abortions, are some of the key obstacles facing women seeking to legally terminate a pregnancy.

Individual doctors, and in some cases entire healthcare institutions, continue to refuse abortions on grounds of conscience. According to research carried out by the Ombudsperson for Gender Equality, out of 27 public hospitals and clinics in Croatia, all the doctors in five of the hospitals refused to provide the service and referred patients to other medical providers or hired outside support. In the remaining 22 hospitals, nearly 60% of doctors refused to perform the service on the grounds of conscience, making abortions increasingly difficult to access.²³ Although required by law, most authorised providers tend not to have standardised procedures to collect official data about the prevalence of refusals and referrals to other clinics.²⁴

The Law on Medical Practice provides a possibility for individual doctors to refuse to provide treatment and services on the grounds of their personal, ethical, religious or moral beliefs, however, it does not permit public health institutions, as a whole, to deny providing the services. Yet, due to widespread conscience-based refusals in some clinics, such refusals have become a de facto institutional policy. The Ministry of Health and the Institute for Public Health have not taken steps to address this problem.

Access to abortion services also varies regionally. In some towns in the northeast of Croatia it is not possible to obtain such service in any of the local hospitals or clinics.²⁵ Women are referred to other providers and often forced to travel to the neighbouring towns at their own cost. This represents an insurmountable barrier for women of lower socio-economic status and forces them to seek clandestine services at great risk to their health.

The prohibitively high cost of lawful abortion service presents an additional barrier for many women. The procedure is not covered by the national Health Insurance Fund and the cost ranges anywhere between 250 – 450 Euro. This is a significant expense in a country where the average monthly income is 840 Euro.²⁶ Over the past four years, the cost of abortion services has increased by approximately 20%.²⁷

In March 2017, the Constitutional Court ruled against a challenge seeking to declare the original 1978 Law

²² Article 15(2) of the Law on Health Care Measures for Exercising the Right to a Free Choice on Giving Birth provides that a woman can legally terminate pregnancy up to the tenth week of pregnancy.

²³ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 315.

²⁴ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 315.

²⁵ RTL *Potraga*, "Dostupnost medicinske usluge prekida trudnoće", 4 March 2019, available at: <https://www.rtl.hr/vijesti-hr/potraga/3337815/potraga-istrazila-u-20-posto-bolnica-koje-su-na-popisu-da-ih-rade-pobacaje-ne-radi-nitko-od-zaposlenih/>.

²⁶ Croatian Bureau of Statistics, Average monthly net and gross earnings of persons paid employment by accounting periods, 2018, available at: https://www.dzs.hr/Hrv_Eng/publication/2018/09-01-02_03_2018.htm.

²⁷ Gender Equality Ombudsperson of the Republic of Croatia, *Izvešće o radu Pravobraniteljice za ravnopravnost spolova za 2018. godinu*, p. 316.

regulating abortion unconstitutional and called on the National Assembly to adopt a new law within two years.²⁸ The Ministry of Health established an expert Commission in 2018 to begin drafting the new law, however, it is unclear when the draft will be ready and open for public consultations.²⁹ Women's rights organisations have expressed concern about the composition of the Commission, which includes a number of conservative health professionals, and no representatives of organisations advocating for sexual and reproductive rights.³⁰

REFUGEE AND MIGRANT RIGHTS

In recent years, Croatia has failed to provide refugees with effective access to international protection and has used violence to keep people out of its territory. Since 2015, hundreds of thousands of people have travelled through Croatia, most of them intending to seek international protection in other EU countries. Following the closure of the so-called "Balkan route" through Hungary in 2015 and subsequently through Austria in 2016, refugees and migrants started arriving in Croatia in greater numbers.

Pushbacks and collective expulsions

In response to the significant increase of people on its borders, the authorities have resorted to a policy of pushbacks and collective expulsions, sometimes accompanied by violence and intimidation to prevent the refugees and migrants from entering Croatia and gaining access to the European Union. Amnesty International and other organisations have documented numerous cases of people being apprehended deep inside Croatian territory, held for hours in police custody and then forcibly returned – in groups – to neighbouring Bosnia and Herzegovina (BiH).³¹ Such returns largely take place without due process, outside the official border crossings and without the required presence of Bosnian border officials.

Reports by human rights organisations and the media³² show that push-backs and collective expulsions to BiH of persons irregularly entering Croatia are widespread and carried out summarily, without the procedural

²⁸ Constitutional court of Republic of Croatia (Ustavni sud Republike Hrvatske), *Rješenje br: U-I-60/1991 i dr.*, 21 February 2017 (Official Gazette 25/2017).

²⁹ Jutarnji list, "Kujundžić o novom zakonu o pobačaju", 25 November 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/novi-zakon-o-pobacaju-u-rukama-konzervativnih-liječnika-otkrivamo-koji-od-njih-vec-odbijaju-raditi-abortuse-udruga-pobacaj-ce-postati-nedostupan/8107118/>
<https://www.jutarnji.hr/vijesti/hrvatska/kujundzic-o-novom-zakonu-o-pobacaju-da-radna-skupina-postoji-uistinu-radi-se-vrlo-ozbiljno-ali-ne-zelim-otkriti-imena-clanova/8097389/>

³⁰ Jutarnji list, "Novi zakon o pobačaju u rukama konzervativnih liječnika", 28 November 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/novi-zakon-o-pobacaju-u-rukama-konzervativnih-liječnika-otkrivamo-koji-od-njih-vec-odbijaju-raditi-abortuse-udruga-pobacaj-ce-postati-nedostupan/8107118/>. Although the Constitutional Court ruling stated that the new law could not be prohibitive or further restrict the right to abortion, local activists fear that, as the pressure from political and religious groups mounts, abortions would become more difficult through the failure to effectively regulate the conscience-based refusals or through the imposition of mandatory waiting periods and biased counseling. See H-Alter, *Kuda ide zakon o pobačaju*, 26 February 2018, available at: <https://www.h-alter.org/vijesti/kuda-ide-zakon-o-pobacaju>.

³¹ Amnesty International research carried out between June 2018 and January 2019 found that systemic and deliberate pushbacks and collective expulsions - sometimes accompanied with violence and intimidation – are a regular occurrence at the border between Croatia and Bosnia and Herzegovina. Among the 94 interviewed refugees and migrants stranded in the temporary accommodation camps in Bihać and Velika Kladuša, Bosnia and Herzegovina, nearly all confirmed being returned from Croatia, often multiple times and after having been held in police stations deep inside Croatian territory, without due process and without access to asylum procedures. One third of those interviewed had experienced violence at the hands of the Croatian police. Many described how they were beaten and intimidated and had their documents and mobile phones stolen or destroyed in what appears to be a deliberate practice by Croatian authorities designed to deter and discourage future attempts to enter the country. See Amnesty International, "Pushed to the Edge, Violence and Abuse against Refugees and Migrants along the Balkans Route", March 2019, EUR 05/9964/2019.

³² See Amnesty International, "Pushed to the Edge, Violence and Abuse against Refugees and Migrants along the Balkans Route", March 2019, EUR 05/9964/2019; Human Rights Watch, "Croatia: Migrants Pushed back to Bosnia and Herzegovina", December 2019, <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>; Novi list, "Pravobraniteljica: Policija i dalje krši ljudska prava migranata. Krije kako ih tretiraju," 18 October, 2018, <http://www.novilist.hr/Vijesti/Hrvatska/Pravobraniteljica-Policija-i-dalje-krsi-ljudska-prava-migranata.-Kriju-kako-ih-tretiraju>; No Name Kitchen, *Border Violence Reports*, January 2019, available at: <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf>; Council of Europe, *Commissioner calls on Croatia to*

guarantees required by international and EU law. The practice documented at the borders also does not include any safeguards against *refoulement*: it does not include any assessment of the individual circumstances and risks an individual would face upon return. Because people are returned outside of any formal process, they are not provided with legal assistance nor given an opportunity to challenge their expulsion, while at the same time refugees are denied the right to seek asylum. These failures amount to a violation of the prohibition of collective expulsions and the principle of *non-refoulement*. Because they resulted in people being returned to the country of last departure without a proper assessment of potential risks upon their return, these collective expulsions are in breach of the EU and international law.³³

Violence and intimidation by the Croatian police

Testimonies of refugees and migrants consistently point to widespread violence and intimidation by the Croatian police and border guards.³⁴ People reported being rounded up, shouted at and beaten with batons, stripped of their clothes and made to walk barefoot for kilometres, sometimes through freezing cold rivers and deep snow. The authorities in BiH have repeatedly accused Croatian police of using physical violence against refugees and migrants before forcibly expelling them to BiH.³⁵ Local authorities on the Bosnian side of the border report frequently finding people who were badly beaten, scared and in need of medical help.³⁶

The Croatian authorities have consistently denied the allegations of violence. However, in July 2019 the President admitted that Croatian police had been involved in push-backs and were using “some necessary violence”, but that this was “not illegal”.³⁷ Credible accounts of abusive practices have been sufficiently frequent to point to a systematic and deliberate policy by the Croatian authorities to discourage new arrivals.³⁸

investigate allegations of collective expulsions of migrants and of violence by law enforcement officers, 5 October, 2018, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-croatia-to-investigate-allegations-of-collective-expulsions-of-migrants-and-of-violence-by-law-enforcement-officers>.

³³ Collective expulsions amount to a violation of the principle of *non-refoulement*. States are obliged to refrain from collective expulsions, regardless of whether the expulsion is carried out towards a country where risks would not exist upon return, simply due to the risks inherent in the failure to consider individual circumstances and in the denial of the right to remedy. See European Court of Human Rights, *Georgia v Russia*, App no 13255/07 (ECtHR 03 July 2014). See also Amnesty International, AIRE Centre, ECRE, ICJ, *Third party intervention before European Court of Human Rights, N.D. & N.T v. Spain*, 17 September, 2018, (EUR 41/9109/2018), <https://www.amnesty.org/en/documents/eur41/9109/2018/en/>, and Amnesty International, *Human cost of fortress Europe: Human rights violations against migrants and refugees at Europe's borders*, 9 July 2014, (EUR 05/001/2014), <https://www.amnesty.org/en/documents/EUR05/001/2014/en/>. Also, pushbacks could be in breach of international conventions, including Article 13 of the International Covenant for Civil and Political Rights (ICCPR), Article 33 of the 1951 Refugee Convention, Article 3 of the European Convention on Human Rights (ECHR), and Article 4 of Protocol 4 and Article 1 of Protocol 7 to the ECHR. They are also in violation of EU legislation, including the Schengen Borders Code, the Asylum Procedures Directive as well as Articles 18 (right to asylum), 19 (protection in the event of removal, expulsion or extradition), and 47 (right to an effective remedy and to a fair trial) of the Charter of Fundamental Rights of the European Union.

³⁴ See Amnesty International, “Pushed to the Edge, Violence and Abuse against Refugees and Migrants along the Balkans Route”, March 2019, EUR 05/9964/2019; Human Rights Watch, “Croatia: Migrants Pushed back to Bosnia and Herzegovina”, December 2019; The Guardian, “They didn’t give a damn: first footage of Croatian police ‘brutality’”, 14 November, 2019, available at: <https://www.theguardian.com/global-development/2018/nov/14/didnt-give-a-damn-refugees-film-croatian-police-brutality-bosnia>; The New York Times, “As winter arrives, thousands of migrants are trapped in Bosnia,” 8 December, 2018, available at: <https://www.nytimes.com/2018/12/08/world/europe/migrants-bihac-bosnia-croatia.html>

³⁵ Jutarnji list, “Bruka i sramota od jedne europske države, članice EU! Ministar sigurnosti BiH tvrdi da posjeduje dokaze vraćanja i zlostavljanje migranata,” 16 Deceber 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/bruka-i-sramota-od-jedne-europske-drzave-clanice-eu-ministar-sigurnosti-bih-tvrdi-da-posjeduje-dokaze-vracanja-i-zlostavljanje-migranata/8183861/>

³⁶ Interview with Una-Sana Canton Police Commissioner and Border Police conducted by Amnesty International in Velika Kladuša, 12-13 December 2018.

³⁷ The Guardian, “Croatian police uses violence to push back migrants, president admits”, 16 July 2019, available at: <https://www.theguardian.com/world/2019/jul/16/croatian-police-use-violence-to-push-back-migrants-says-president>, IndexHR, “Kolinda u šokantnom intervjuu priznala da hrvatska policija krši zakone, 10 July 2019, available at: <https://www.index.hr/vijesti/clanak/kolinda-u-sokantnom-intervjuu-priznala-da-hrvatska-policija-krsi-zakone/2099829.aspx>

³⁸ In July 2019, the Swiss Federal Administrative Court suspended a return of an asylum-seeker to Croatia because of the risk of repeated pushback and violence which had left him with serious physical and psychological consequences. See In

Targeting organisations supporting refugee and migrant rights

As the allegations of violent push-backs have mounted, the Croatian authorities have increasingly tried to discourage public scrutiny of their migration practices. The Ministry of the Interior has repeatedly denied the Office of the Ombudsperson access to information relating to migration-related activities. The Ombudsperson officially complained that her numerous requests for information about pending investigations into the deaths of migrants and refugees and the allegations of police violence had been ignored by the Ministry of Interior and that several local police stations had denied her access to migrant-related data.³⁹

Throughout 2018, two well-established organizations that provide integration programs, legal aid and advocacy, *Are You Syrious?* and the Center for Peace Studies, have come under direct attack by the Ministry of Interior. The Ministry attempted to publicly delegitimize the organizations' activities by suggesting that they assisted migrants and refugees to "illegally enter" Croatia.⁴⁰ *Are You Syrious?* and the Center for Peace Studies have reported frequent intimidation and harassment of their staff and volunteers by the police after their activists were held in custody without formal charges and threatened because they had criticized police activities at the borders.⁴¹

The steady smear campaign⁴² has not only made it difficult for these organizations to carry out their work, it has also significantly harmed their reputation among the public and has had a chilling effect on their activists and other human rights defenders.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Republic of Croatia to:

July 2019, the Swiss Federal Administrative Court suspended a return of an asylum-seeker to Croatia because of the risk of repeated pushback and violence which had left him with serious physical and psychological consequences

³⁹ Ombudsman of Republic of Croatia, "Human rights of migrants: complaints regarding police treatment still not investigated," 18 October 2018, available at: <http://ombudsman.hr/en/all-news/npm/npm-article/1498-migracije-prituzbe-na-policijsko-nasilje-i-dalje-nisu-istrazene>.

⁴⁰ NetHR, "Božinović teško optužuje udruge: CMS I ASY davali novac migrantima i poticali ih na ilegalni ulazak u Hrvatsku," 20 April 2018, <https://net.hr/danas/hrvatska/ministar-bozinovic-tesko-optuzuje-udruge-cms-i-asy-davali-novac-migrantima-i-potali-ih-na-ilegalni-ulazak-u-hrvatsku/>.

⁴¹ Findings included herein are based on interviews with the staff of *Are You Syrious?* and Center for Peace Studies conducted on 11 December in Zagreb, Croatia, the organizations' Letter to the Members of the European Parliament, December 2018 (full text available to Amnesty International), as well as reports in the press (see, for example, Euractiv, "Spurned by authorities, humanitarian NGOs feel unsafe in Croatia," 21 November 2018, <https://www.euractiv.com/section/justice-home-affairs/news/wed-spurned-by-authorities-humanitarian-ngos-feel-unsafe-in-croatia/> or Telegram, "Mučna priča o ljudima koji pomažu migrantima I MUP-u koji traži da se njihova udruga zabrani," 5 October, 2018, <https://www.telegram.hr/price/mucna-prica-o-ljudima-koji-pomazu-migrantima-i-mup-u-koji-trazi-da-se-njihova-udruga-zabrani/>). Specific cases and accounts of increasingly hostile environment for the organizations promoting rights of migrants, refugees and asylum-seekers in Croatia will be included in greater detail in the forthcoming Amnesty International Europe report on the subject.

⁴² The smear campaign has not been limited to the authorities. CMS, for example, has waited for nearly two months to receive an official apology and the retraction of incorrect information from the public broadcaster Hrvatska Radio Televizija (HRT), which during a popular show "Otvoreno" provided space for multiple speakers who accused CMS of criminal offences of fraud and deception, facilitating illegal migration and undermining national security of Croatia, while failing to give CMS an opportunity to respond. Only after the CMS filed official complaint against the editor of HRT did the broadcaster issue an apology. See Centar za mirovne studije, HRT napokon objavio ispravak netočnih informacija objavljenih u emisiji OTVORENO, 12 February 2019, <https://www.cms.hr/hr/novosti/hrt-napokon-objavio-ispravak-netocnih-informacija-objavljenih-u-emisiji-otvoreno>. Also, see HRT, Otvoreno: Ugrožavaju li migranti sigurnost u Hrvatskoj?, 18 December 2018, <https://vijesti.hrt.hr/478672/otvoreno-ugrozavaju-li-migranti-sigurnost-u-hrvatskoj>.

Gender-based violence and the definition of rape

- Take concrete steps to fully harmonise the legislative and policy framework pertaining to gender-based violence with the standards set out in the Istanbul Convention;
- Ensure systematic and consistent capacity-building for police officials, civil servants and court officials about gender equality and gender-based violence to enhance their common understanding of applicable international and EU standards and their consistent application across sectors;
- Amend the Law on Protection from Domestic Violence to include in the definition of those covered by the law also persons in intimate relationships who do not share a joint residence, who have been in a relationship less than three years or who do not have a child together, to ensure that these victims have full protection under the law;
- Secure regular budgetary commitment to adequately fund the implementation of the National Strategy for the Protection against Domestic Violence, in particular to provide for the adequate operation of existing centres and shelters for victims of gender-based violence and opening of new shelters in regions where they are not operational;
- Take concrete steps to challenge rape myths and stereotypes and conduct capacity-building of the police and judiciary to ensure that the amendments introducing stricter penalties for rape, once adopted, are properly implemented.

Access to sexual and reproductive health services and information

- Amend the Law on Medical Practice to ensure that conscience-based refusals by individual medical practitioners are adequately regulated so as not to impede women's access to sexual and reproductive health care in any way, including their access to safe and legal abortion. This should include automatic and timely referrals to alternative and easily accessible providers within a reasonable geographical reach in cases where clinics are not able to provide the service;
- Enforce a legal obligation for all providers to put in place and use a standardised system of data collection to obtain and maintain accurate information about the termination of pregnancies;
- Ensure that legal abortion procedures are ultimately covered by the national Health Care Fund or that the cost of the procedure is not prohibitively high and subsidised for women of more vulnerable economic and social status;
- Conduct a public awareness campaign to ensure that women are adequately informed about their right to terminate pregnancy that is primarily focused on their best interest.

Refugee and migrant rights

- Ensure that all asylum-seekers have access to fair and effective asylum procedures, including an assessment of their claims for international protection on their merits in an individualized procedure;
- Immediately stop using force and intimidation to prevent refugees and migrants from accessing Croatian territory;
- Conduct independent, prompt and effective investigations into all allegations of violence and other excessive use of force by the police against migrants and refugees and take appropriate action against the perpetrators;
- Provide physical access and access to information in police stations to the Office of the Ombudsperson in line with Croatian law and the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Stop the attacks on and harassment of non-governmental organisations promoting refugee and migrant rights in Croatia and provide a safe and enabling environment for their work;
- Publicly condemn attacks, threats and intimidation against non-governmental organizations and human rights defenders.

