

Universal Periodic Review of Croatia
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JOINT SUBMISSION

B.a.B.e. Be active. Be emancipated

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B.a.B.e. is a civil society organisation which has, since its inception in 1994 in Zagreb (Croatia), been dealing with the protection of human rights, especially women's human rights.

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Sexual Rights Initiative

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The Sexual Rights Initiative (SRI) is a coalition of national and regional organizations based in Canada, Poland, India, Argentina, and South Africa with an office in Geneva that has been advocating for the advancement of human rights in relation to gender and sexuality in the UN human rights system since 2006.

Key words

Gender inequality, gender based violence, workplace discrimination and harassment, gender equality, violence against women, abortion, sexual and reproductive health and rights

EXECUTIVE SUMMARY

1. This report has been prepared by Be Active. Be Emancipated (B.a.B.e.) and the Sexual Rights Initiative and address three themes: Gender based discrimination in the workplace, gender based violence / violence against women; and sexual and reproductive rights focusing on abortion and comprehensive sexuality education. The report assesses the implementation progress of accepted recommendations made on these themes and also highlights previously unaddressed concerns, new developments, protection gaps and rights violations. Finally, the report makes recommendations on the three themes to the Republic of Croatia.
2. Since the last review, The Republic of Croatia has put in place a number of laws and policies which create the conditions for formal equality that align with international guidelines, norms and standards. However, effective implementation of these standards is still lacking as evidenced by institutionalized and individual cases of gender inequality and gender-based violence and barriers to the realisation of sexual and reproductive rights.
3. Patriarchal gender norms and practices, the strong influence of conservative religious institutions, the falling demographic among other factors manifest in unpaid reproductive labor falling almost exclusively on women, lack of equity in social protection and healthcare, and represent significant barriers to women realising their rights in the areas of labour, safety and security, bodily autonomy and sexual and reproductive rights.
4. While all women and girls are negatively affected by these norms and practices, this experience is compounded for women, girls and other persons facing multiple and intersecting forms of discrimination: women in rural areas, women with disabilities, women from national minorities, lesbians, victims of sexual violence in the Homeland War, migrant and trafficked women.ⁱ

THEME ONE: GENDER BASED DISCRIMINATION IN THE WORKPLACE

Implementation of past accepted recommendations

5. Croatia accepted five recommendations on gender based discrimination / gender equality in the workplace and labour market.
 - 5.1. Fully ensure gender equality in employment and in political posts (Russian Federation)
 - 5.2. Eliminate discrimination in employment, particularly for women and members of the Roma population, pursuant to recommendations of the International Labour Organization supervisory bodies. (United States)

- 5.3. Adopt specific legislation pertaining to gender discrimination in the labour market, including sexual harassment in the workplace and discrimination on the grounds of pregnancy and/or maternity (Trinidad and Tobago)
- 5.4. Continue working for a reduction in female unemployment and the elimination of discrimination against women in the labour market and for achieving equality of opportunities (Cuba)
- 5.5. Strengthen efforts on the empowerment of women by implementing programmes aimed at changing society's perception of women and removing barriers affecting the employment of women (Malaysia)

Implementation progress: **Partially implemented.**

The rate of men's working activity (2017) was 58.2%, and women's 45.6%. The low employment rate of women shows the high risk of exposure to economic poverty and dependence on other family membersⁱⁱ. Over the last 15 years, women's political participation has been stagnant, despite legal solutions aimed at improving the number of women participating in decision-making processes at local, regional and national levelsⁱⁱⁱ. After the election in 2016, the proportion of women in the Croatian parliament was 12,5%. In 2017, of the total of 555 mayors, only 50, or 9 percent, were women. According to the data from the 2017, some of the political parties that did not respect the gender quota received a misdemeanor lawsuit, some did not. This leads us to conclude that the law is not being adopted consistently, and there is a perception in the public that political parties will rather pay penalties for breaking the law than include women in their electoral lists.

Unaddressed issues and new developments since Croatia's last UPR

6. Croatia's legal framework offers protection against gender related discrimination in the labor market modelled on the EU gender equality acquis. This is primarily achieved through the Gender Equality Act and the Labour Act. Although the 'National Gender Equality Policy', which covered the period 2011-2015, expired 3 years ago, the new strategy is still in draft form and has not voted on. The delay in finalising and implementing the new Policy suggests a lack of political will and commitment to gender equality by the government.
7. Despite the legal framework, Croatian labor market remains highly segregated - horizontally and vertically. Described indicators of unfavorable position of women on the Croatian market are tightly related to prevalence of stereotypes determining social roles of men and women within a family, especially in relation to care for children and elderly.
8. Economic indicators suggest stubborn persistence of women's unfavorable position in the labor market. Employment rate of women in comparison to men in the past several years continues to be lower by over 10%^{iv}.

Women over 40, women with disabilities and single mothers are especially vulnerable in the labor market^v.

9. Women are more often than men employed on fixed-term employment contracts, in positions which are paid less and align with traditional gender norms and roles, and also paid less than men for the same work and positions.
10. The 2.1% unemployment gap between men and women is one of the highest in the EU.
11. Although with 10% average Croatia is on the lower end of the gender pay gap in the EU^{vi}, the gap reaches 25% in those market areas with the highest average salaries (e.g. area of health services and area of financial services) all of which are male dominated.
12. Women are highly underrepresented in high management. Women make up 17% of board members of listed companies and 27% of board members in limited liability companies. They are represented with 19% in supervisory boards of the listed companies and 24% in supervisory boards of limited liability companies^{vii}. At the same time, number of women with university level degrees significantly outpaced number of men in the last two decades. Yet, in last two years number of unemployed women with university degrees is on the rise, while unemployment rate for men of the same level of education is falling.
13. Croatia is faced with demographic problems and population decline, Government and local government units introduced measures aimed at birth rates increase, some of which have further negative effects on equality of women and men in the labor market.
14. In 2016, the City of Zagreb issued a decision about financial support for stay at home parents, presenting it as a measure aimed at improvement of demographic status. According to this measure parent who takes care about at least three children is entitled to a monthly financial support in the amount of average monthly salary. It is to be mentioned that the measure was initially named „Decision on financial support for stay at home mothers“ and was later renamed in a way that the term mother was replaced by the term parent. However, in the public it is still referred to as measure for stay at home mothers.
15. Although this incentive can be seen as a positive one addressing unpaid reproductive labour, given that a great number of parents, mostly women choose to stay at home to take care of the family or are forced to do so for previously mentioned reasons, there are also potential negative implications for women's position in the labour market. It also confirms wide-spread stereotypes about women as housewives and those who care for children.
16. It should be noted that a large number of women who are employed at lower paid jobs earn less than the amount of financial support which is granted by the measure, which only motivates them to terminate their employment contracts and become a housewife.

17. Therefore, this measure will have a negative impact on employment rate of women, while a certain number of women will never even enter the labour market due to the use of this measure. Considering that this financial support is not of unlimited time duration and it lasts until the youngest child reaches the age of 15, it is to expect that it will result in even more difficult employment of women who use this financial support one day when it expires. Specially concerning is the fact that throughout the time period in which women use that kind of financial support, they are considered unemployed, the time spent as stay at home mother is not included in their working life and in the calculation of the pension amount.
18. Beside discrimination on the grounds of pregnancy and maternity rights, the pay gap and the effect of 'glass ceiling', **sexual harassment on work place^{viii}** is also a form of discrimination, which has a negative effect on victims who most often end up on sick leave, significantly and directly threatens the position of women on the labor market and has negative impacts on gender equality.
19. Parental leave is still predominantly used exclusively by women, which at the same time implies their absence from work for long periods of time, which often gives employers the impression of lack of ambition and commitment to work, which negatively affects competitiveness of women in the labor market.^{ix} Data analysis showed that there was an unexpected drop in the number of men/fathers who used maternity leave (158 men - 0.24%) and parental leave (1.930 men - 4.42%)^x.
20. Since the existing legal solutions and measures have not led to favorable effects, it is necessary to create new proposals that would encourage fathers to take a more active role in early age of their children and take parental leave. That would lead to a more efficient and easier reengagement of women on the labor market. This is also possible reason for which women are more often than men employed on fixed-term employment contracts, in which way employers are secured in the event of employees pregnancy, since it is forbidden to terminate permanent employment contracts during pregnancy and maternity leave, while fixed term contract are terminated upon their expiry irrespective of whether the employee is pregnant or is on maternity leave.
21. All of the above has a negative impact on the economic autonomy of women throughout their life. The higher unemployment rate among women, unequal pay for equal work, weaker pension status of women, the feminisation of the gap in social protection place women at greater risk of poverty.

Recommendations

22. Conduct a review of demographic measures, including financial support for stay at home parents, and assess their impact on gender equality, norms and stereotypes and women's role in the family and labour market. Ensure the participation of women's rights and feminist groups, trade unions,

employee rights groups among others as expert voices in the design, implementation and analysis of the review.

23. Based on the review's findings and an analysis of the root causes and barriers to women's equal participation in the labour market, design new measures and harmonise existing measures to address these barriers.
24. Amend labour laws and policies to include the time which women spend on maternity leave is included into pension calculations, increase maternity benefits; ensure women can return to the same working position they had prior to maternity leave.
25. Create tax and other incentives for employers to encourage the recruitment and employment of women on permanent contracts, with additional incentives for employing young women (from NEET) and women older than 40.
26. Review parental leave policies and provide for mandatory parental leave for fathers of at least one month.
27. Invest in social protection services including through the provision of child care services and elderly care services in the whole territory and in areas in which this is not possible, ensure affordable nanny care, to reduce the feminisation of unpaid care labour, increase women's ability to enter and remain and return to the labour market.^{xi}

THEME TWO: GENDER BASED VIOLENCE

Implementation of past accepted recommendations

28. During previous Universal Periodic Review Cycle Croatia received and accepted 25 recommendations relating to the theme of gender based violence. In response to many of these, Croatia indicated that they had already been implemented or were in process of implementation.

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

28.2. Ensure rapid ratification of the Council of Europe Convention on Prevention and Combating Violence against Women and Domestic Violence (Italy)

28.3. Address the legislative gap that relates to domestic violence offences and update the Criminal Code to recognise domestic violence as a criminal offence.

28.4. Intensify its efforts to ensure effective law enforcement for domestic violence against children and women, to bridge the gap between legislation and practice, along with enhancing awareness of victims' rights and training public officers and legal professions.

29. Implementation progress: Partially implemented. Although Croatia ratified and put into force the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence^{xii} in 2018^{xiii}, the problem of GBV remains. Victims and survivors are still frequently not guaranteed physical distance from the perpetrators when giving statements to the police; the problematic practices of the double arrests and penalizing both victim and the perpetrator, soft penalties for perpetrators, domestic violence that falls under category of misdemeanors persist.

Unaddressed issues and new developments since Croatia's last UPR

30. The legal framework could be improved, but the biggest problem is the inconsistent application of the law in practice, the individual approach of individual judges, police officers, social workers, medical staff, educational workers and other professionals who're the contact point to the victims. Quality and well-established multisector cooperation of all relevant stakeholders in the field of violence prevention and control is necessary.

31. Domestic violence in Croatia persists to be a dominant form of GBV. It's identified as a crucial problem in Croatian society. In 2018, 4 women were killed by their partners which is the lowest rate recorded in the last three years (12 killed in 2016, a 9 killed in 2017).^{xiv} However, statistics show that out of the total number of women who had been killed in Croatia, in 50% of the cases perpetrators were persons with whom they were in intimate relationship. It is especially concerning that in the most cases murders are triggered by the decision of woman to leave her partner and motivated by the perpetrator's need to defend his honor which is the result of dominant patriarchal social attitudes.^{xv}

32. A new law on Domestic violence the **Law on Protection against Domestic Violence**^{xvi} introduces the rights of victims of domestic violence such as the right to access to support services for victims of domestic violence, the right to effective psychological and other professional assistance and support from a body, organization or institution to assist victims of domestic violence, the right to protection against intimidation and retaliation, the right to the protection of dignity during the examination of the victim as a witness, the right to be accompanied by a person of confidence in taking all the actions in which the victim participates, the right to be informed, without undue delay, of the suspension of the detention or escape of the defendant and of the annulment of the decision to impose protective measures, the right to an representative during the proceedings, the right to be questioned by the person of the same sex in the police, the right to avoid contact with the perpetrator before and during the procedure, unless the misdemeanour procedure requires such contact, the right to police protection for the purpose of taking personal belongings when leaving a common household.

33. There are a number of problems with the law itself. The Law is a misdemeanor law and as such prescribes misdemeanor sanctions for the

perpetrators as well as protective measures, which are considered to be too mild and ineffective in practice.

34. The definition of relationships covered by the new law has not expanded to include persons in intimate relationship despite the need for this was indicated by civil society organizations and the Gender Equality Ombudsperson. Family members within the meaning of that Law on Protection from Domestic Violence are spouses, non-marital partners, life partners, informal life partners, their common children and children of each of them, blood relatives in straight line, siblings up to the third degree, marital relatives up to the second degree, adoptive parents and children. As a result, women who are in domestic (unmarried), non-cohabiting intimate partnerships, or relationships where there are no common children and who experience partner violence cannot use the mechanisms of protection prescribed by the Law on Protection against Domestic Violence^{xvii}. Such forms of violence are most often prosecuted as a disturbance of public order unless serious bodily harm occurs when it can be prosecuted under criminal law.
35. In practice, several problems had been identified as crucial through individual cases within the implementation of the provisions of the Law on Protection from Domestic Violence. Most significantly the impact of the law framing domestic violence as a misdemeanor with mild sanctions, sends the message that this form of violence is not very serious, and that the judicial system won't protect survivors and victims from domestic violence.
36. In misdemeanor proceedings the perpetrators are charged with one specific act of violence reported by the victim, without taking into account the overall context and chronology of violence among family members. Reported event is considered as an isolated incident. Police officers regularly don't distinguish the act of violence from the victim's right to the necessary defense and lose sight of the fact that the victim has the right to defend herself from the attacker and that swearing is sometimes the only 'weapon' victim has.^{xviii} This is visible from the ongoing trend of dual arrests^{xix}.
37. Misdemeanour courts pronounce mild, mostly conditional sentences - prison sentences are only prescribed in 10% of domestic violence cases^{xx}- and regularly release defendants, while protective measures are pronounced in a smaller number of cases, and in those cases where they are determined, their effective enforcement is questionable. Victims do not have the right to free legal aid in a form of representative during misdemeanor proceedings and are often as a result of this forced to confront abusers on their own. Emotional or psychological violence in these cases remains unsanctioned.
38. Amendments of the Criminal Code which entered into force in 2015^{xxi} once again introduced in Croatian criminal system the criminal offense of domestic violence, after it was excluded from the criminal code 2011. This criminal offense covers serious forms of domestic violence that have not been accomplished by any other criminal offense, and are of intensity or perseverance that goes beyond the limits of misdemeanour liability, such as serious insults, intimidation, physical, sexual abuse among others.

39. While the gaps in the legal framework cited above need to be improved, the biggest problem is the inconsistent application of the law in practice, the individual approach of individual judges, police officers, social workers, medical staff, educational workers and other professionals who're the contact point to the victims. Quality and well-established multisector cooperation of all relevant stakeholders in the field of violence prevention and control is necessary.

RECOMMENDATIONS

40. Amend the Law on Protection from Domestic violence to:

- include partners in intimate relationships in the circle of persons who are considered to be family members;
- ensure that victims in misdemeanor proceedings are not directly confronted with the perpetrator without adequate psychological preparation and allow the victim to give her testimony in the absence of the perpetrator

41. Amend the Criminal Procedure Act by introducing additional rights for the victims of the criminal offense of domestic violence to a representative at the expense of budgetary funds as well as the right of the victim to appeal against the court decision. Also:

- provide legal representation for victims of domestic violence at the state's expense,
- provide the right for victims to appeal against court decisions.

42. Provide state-funded and state-mandated rights based multi-sectoral training for police officers, judges and social workers with the aim to create unified procedure of conduct in all cases of domestic violence and multisectoral cooperation.

43. Place a moratorium on the practice of dual arrests by police officers until a thorough investigation into the incident can rule out acts of self defence undertaken by the victim of domestic violence.

44. Criminally prosecute all forms of repeated domestic violence

45. Provide housing care for victims of domestic violence immediately after the violence had been reported and provide financial support for the work of shelters for victims and provide individual financial support to victims and ensure their employment.

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- ⁱ The Medically Supported Fertilization Law discriminates against single women and lesbians in life partnership, Human Rights in Croatia: Overview of 2018, more available on: <https://www.kucaljudskihprava.hr/wp-content/uploads/2019/03/Ljudska-prava-u-Hrvatskoj-2018.pdf>
- ⁱⁱ Gender Equality Ombudsperson, Report for 2018, available at <https://www.prs.hr/index.php/izvjesca>
- ⁱⁱⁱ Gender quotas were introduced in Croatia in 2008 by the Gender Equality Act. “And where are women?” - An analysis of the status of women in political parties towards the 2017 Local Elections, Tajana Broz, CESI, Zagreb, more on: https://www.cesi.hr/attach/_a/analiza_a_gdje_su_zene.pdf
- ^{iv} Gender Equality Ombudsperson, Report for 2018, available at <https://www.prs.hr/index.php/izvjesca>
- ^v Human Rights in Croatia: Overview of 2018, available on <https://www.kucaljudskihprava.hr/wp-content/uploads/2019/03/Ljudska-prava-u-Hrvatskoj-2018.pdf>
- ^{vi} Eurostat, 2016
- ^{vii} ‘A survey on the representation of women and men in management positions in business entities in the Republic of Croatia’, Ombudsperson for Gender Equality of the Republic of Croatia, Zagreb, 2016, http://staklenilabirint.prs.hr/wp-content/uploads/2014/08/PRSRH_Izvjesce_muskarci-zene500_web.pdf
- ^{viii} Ombudsperson for Gender Equality considers that sexual harassment is still a taboo in Croatian society which neither the victims, nor the witnesses are inclined to talk about.
- ^{ix} Gender Equality Ombudsperson, Annual Report for 2018, available at: <https://www.prs.hr/index.php/izvjesca>
- ^x Annual Report of the Ombudsperson for Gender Equality of the Republic of Croatia, 2017
- ^{xi} Ensure availability of child care services and elderly care services in the whole territory and in areas in which this is not possible, ensure affordable nanny care.
- ^{xii} The ratification of the Convention marked the beginning of work for significant improvement of the legislative framework and practice in combating domestic violence and violence against women, according to the 2018 Annual report of the Ombudsperson for Gender Equality
- ^{xiii} It is important to emphasize that Croatian legislation was even before the official ratification of the Istanbul Convention, harmonized in line with Convention's regulations.
- ^{xiv} Gender Equality Ombudsperson, Report for 2018, available at <https://www.prs.hr/index.php/izvjesca>
- ^{xv} Gender Equality Ombudsperson, Report for 2018, available at <https://www.prs.hr/index.php/izvjesca>
- ^{xvi} Croatia, Law on Protection from Domestic Violence, Zakon o zaštiti od nasilja u obitelji, Official Gazzete 70/17, available at <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>
- ^{xvii} Croatia, Law on Protection from Domestic Violence, Zakon o zaštiti od nasilja u obitelji, Article 8, Official Gazzete 70/17, available at <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>
- ^{xviii} Gender Equality Ombudsperson, Annual Report for 2016, 2017, 2018, available at: <https://www.prs.hr/index.php/izvjesca>
- ^{xix} During interventions in domestic violence cases the police often arrests and accuses both partners without looking into the context and the history of domestic violence and without determining who is the victim and who the perpetrator.
- ^{xx} Gender Equality Ombudsperson, Annual Report for 2016, 2017, 2018, available at: <https://www.prs.hr/index.php/izvjesca>
- ^{xxi} Croatia, Criminal Code, Kazneni zakon, Article 179a, Official Gazzete 125/11, 144/12, 56/15, 61/15, 101/17, 118/18