

**REPUBLIKA HRVATSKA**

**PRAVOBRANITELJICA**

**ZA RAVNOPRAVNOST SPOLOVA**

Ev. broj: PRS 12-05/18-65

Ur. broj: 23-18-02

Zagreb, 01. listopad 2018.

[wgdiscriminationwomen@ohchr.org](mailto:wgdiscriminationwomen@ohchr.org)

Dear Sir/Madam,

Ombudsperson for Gender Equality of the Republic of Croatia received your request forwarded to her by Ombudsperson of the Republic of Croatia to fill out the questionnaire on deprivation of liberty of women and girls. Please find below answers to your questions.

**I. Justice system**

1. In the course of 2013 Ombudsperson conducted a research on women convicts and their status in Penitentiary Požega. During the visit to the Penitentiary Ombudsperson conducted an anonymous survey with the purpose to get acquainted with the type of crime committed, the relationship of detainees towards the act, the relationship with other detainees, Penitentiary's staff and with their families as well as the determination of the conditions in which convicts reside, jobs that they carry on, the amount of the payment they receive, disciplinary measures, ways of contact with family etc. Eighty women-convicts out of one hundred fifteen filled out the survey (which makes 69,5% out of total).

The analysis of criminal acts committed refers to the conclusion that most examinees committed criminal act of possession of narcotics for sale (19,5%), then criminal act of fraud (17,5%), the abuse of power in business economics (12,5%), murder (11,25%), theft (8,7%), the abuse of power (7,5%), car accident (5%). There was only one case of: neglect and the abuse of a minor, attempt of murder, sexual intercourse with a child, endangering security by generally dangerous act, extortion and tax evasion.

Out of eighty convicts, 1 did not finish primary school (1,25%), 12 finished primary school (15%), 40 finished secondary school/medium expertise (50%), 9 finished polytechnic school/higher expertise (11,2%) and 16 finished universities/high expertise (20%). The analysis brings to the conclusion that most convicts were sentenced to imprisonment for criminal acts from the business sector (especially due to the fact that from the life plans related to convicts' future and time after leaving the Penitentiary one might conclude that certain number of convicts with secondary and higher education had private accounting service). Right next are criminal acts connected to the posession of narcotics and narcotics trafficking and only after that murder and attempt of murder.

2. From the above data, none of the convicts was detained in relation to civil law suits.

3. Women in general are particularly sensitive group when it comes to the risk of poverty. They are affected by the pay gap and pension gap. The latest data on average monthly gross earnings per sex of the employee refer to 2015 when woman's wage was 7.471 HRK and man's 8.422 HRK, which means that the share of the average woman's wage in an average man's was 88.7%. These figures show that on average men earn 11,412 HRK more than women per year, or 1.47 of an average Croatian gross wages more. Continuous gender-based division of the labor market, both vertical and horizontal, is one of the main reasons for the wage gap existence, but also the source of a noticeable pension gap which was 20.4% in 2014. Furthermore, in a case of separation or divorce with a partner/spouse in most cases women are those who will get the custody over a child and this might aggravate their financial situation, given the fact that some fathers do not comply with their obligation to pay the alimentation. A lot of women mention in their complaints to Ombudsperson that they do not have enough money for legal representation to start divorce process so one might conclude that it would be the same in a case when they are convicted (which also raises the question of the quality of legal representation provided to them).

4. Women-convicts sentenced to imprisonment for more than six months serve the sentence in Penitentiary Požega which can be in closed, semi-open and open conditions. In penitentiaries in Croatia security measures such as compulsory alcohol/drug treatment and compulsory psychiatric treatment are being implemented. Diagnostic Center in Zagreb is working as the part of prison system and it performs medical, social, psychological and criminologycal analysis of convicts, all for the purpose of realizing the principle of individualisation of punishment and drafting of a program of execution of imprisonment with a proposal of a specific penitentiary or prison in which prisoner will continue to serve his/her sentence.

The term of individualisation of a sentence includes primarly a sentence that would be appropriate to a perpetrator of a criminal offense taking into account the purpose of punishment. This will be carried out by the court by assessing all the circumstances that exist on the perpetrator's side, classifying them into categories of mitigating and aggravating circumstances. In general, courts in Croatia consider the circumstance of motherhood or paternity to be a mitigating circumstance on the part of a perpetrator but it simply cannot be assessed by automatism. For instance, it would not be considered as mitigating circumstance if the accused does not financially support his/her child and does not take care of it. Court takes into the account family circumstances when deciding on conditional sentence.

**II. Other institutions**

1. When it comes to the institutions for girls i.e. children in the Republic of Croatia there are homes for children without an adequate parental care, homes for upbringing of children and youth and upbringing homes (whose primary goal is correction of minors), homes for children with special needs and rehabilitation centers (for children with physical and mental impairments) and psychiatric hospitals for children and youth. For the adults there are psychiatric institutions (with addiction treatment departments), safe houses for victims of domestic violence, nursing homes etc.

2. Ombudsperson cannot fully answer this question due to the fact that the domain of many of these institutions come out of the scope of her authority and fall within the scope of other ombuds institutions (General Ombudsperson, Ombudsperson for Children or Ombudsperson for Persons with Disabilities). When it comes to the victims of the domestic violence, during the prosecution of the domestic violence police will inform victims about the importance of self-protection and cooperation in a way that will contribute to their security. They will inform them about addresses of institutions and organisations providing assistance and protection to victims of domestic violence, about the possibility of moving them to shelter for victims of domestic violence or Home for Children or Adults victims of the domestic violence. If a victim of violence seeks for a shelter (so there must be a victim's consent!) the competent center for social care will be asked to take the measures needed to find the appropriate shelter immediately and in a case when a center, due to the justified circumstances, is not able to do so, the transportation of victims to shelter will be done by police officers with special attention to the security and secrecy of the address of accommodation. Shelter for victims of domestic violence can also be offered directly by center for social care.

In the Republic of Croatia there are 19 shelters and counseling centers for victims of domestic violence (14 of them are managed by civil society organisations). Protection in shelters is provided to victims and their children. Shelters have teams of professionals which consist of psychologist, lawyer or social worker which ensures multidisciplinary approach to victims.

**III. Forced confinement in private contexts**

1. Forms of forced confinement still present in the Republic of Croatia are home detention/guardianship and human trafficking (mostly in a form of prostitution).

There is difficult position of Roma women living at high risk of gender-based violence (Roma population is the most numerous in Međimurje County). The most prominent forms of violence against Roma are primarily physical and sexual domestic violence, but also human trafficking, (forced) juvenile marriages and forced begging. Among this minority group domestic violence can sometimes be present as home detention or guardianship.

Prostitution is closely linked to human trafficking, which is evident from the fact that in 2017 women were identified as victims of trafficking in 44% of the cases and that they were exploited sexually, as opposed to men who were most often exploited for doing illegal work. What is constant throughout all the years is that all the persons who are injured by the criminal offense of prostitution were women and younger people. Specifically, by analyzing data on the age structure of victims during 2017, the Ombudsperson notes that they are women of ages 18-40, with the majority (52%) being in the age group of 22-26 years.

Therefore, and in accordance with the Directive 2011/36/EU, aid and support measures should also take gender into account where possible. According to the Ministry of Interior data, 29 victims of human trafficking (2016 - 30 victims of human trafficking) were identified in the Republic of Croatia. According to the Ministry of the Interior, this is based on the fact that victims of human trafficking (as in 2016) have been identified through related criminal offenses. Observed by age, the largest share of victims of human trafficking are children, i.e. persons under the age of 18 (14 cases) and persons aged 19-30 (10 cases). Thus, in almost 82% of cases of trafficking victims were persons under the age of 30 and there are no significant changes in this respect compared to the previous reporting periods.

However, analyzing the data on victims according to the type of exploitation Ombudsperson observes that, as opposed to previous years, in 2017 the largest number of victims of human trafficking was exploited to commit illegal activities (42%), followed by labor exploitation (33%) and sexual exploitation (21%). Analyzing the above data according to the sex of the victims, it results that men in most cases (58%) were exploited to commit unlawful acts, followed by labor exploitation (37%). While men were sexually exploited in only one case (4% share), women were mostly sexually exploited (44% cases), followed by labor exploitation (27%) and exploitation in counterfeit activities (22%).

2. Observed by age, the largest share of victims of human trafficking are children, i.e. persons under the age of 18 (14 cases) and persons aged 19-30 (10 cases). Thus, in almost 82% of cases of trafficking victims were persons (girls and women included) under the age of 30. Roma girls and women are affected in all age groups but most vulnerable are also young girls.

3. National Plan for the Combat against Human Trafficking for the period 2018-2021 sets goals:

1. to improve the normative framework for the protection of victims of human trafficking and the detection, prosecution and appropriate sanctioning of perpetrators of human trafficking and the reduction of demand;

2. to strengthen proactive anti-trafficking practices;

3. regional and international cooperation in the area of combating human trafficking and victim identification;

4. tracking the human trafficking phenomenon through up-to-date databases;

5. to strengthen co-operation between police officers and state attorneys to ensure that perpetrators of trafficking-related offenses and their accomplices have been detected and punished appropriately;

6. to ensure the protection of the best interests of victims of human trafficking;

7. to improve existing co-operation between state institutions and civil society organizations;

8. to raise public awareness of the issue of human trafficking;

9. to continue education of target groups on trafficking at national and international levels;

10. systematic cooperation of the Republic of Croatia with other states and international and regional organizations and initiatives in the area of combating human trafficking;

11. further development of cooperation between representatives of state administration bodies and civil society organizations and the national coordinator in order to improve the implementation of the National Anti-Trafficking Plan for the period 2018-2021.

**IV. Migration and crisis situations**

1. The biggest problem is that women – victims of domestic violence and those who could be subjected to „honor“ practices in most cases are not recognized by officials as social group that could be persecuted in their native country (and whose life could be in danger if there are no adequate legislative and institutional frameworks to penalize such violence) in the process of acceptance of seeker of international protection nor in the process of approving international protection. In this respect, the Ombudsman supports the implementation of comprehensive monitoring.

2. According to the Law on International and Temporary Protection, which transposes all important EU directives into the legal order of the Republic of Croatia and which regulates the implementation of the EU regulations, women are recognized as a vulnerable group, namely - pregnant women, single parents with minors (in most cases women), victims of human trafficking, torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation, and as such enjoy special procedural and acceptance guarantees.

The principle of family integrity is one of the principles prescribed by the Law on International and Temporary Protection. Family members who came along with the applicant have the right to stay. The asylum seeker and the alien under subsidiary protection have the right to reunite with their family. A juvenile child of an asylee and an alien under subsidiary protection that has not started his own family follows the legal position of a legal representative who has been granted international protection, for which the Ministry makes a decision. The decision to reject a family reunification request can not be based solely on the fact that there are no official documents proving a particular family relationship.

Kind regards,

**GENDER EQUALITY OMBUDSPERSON**

**OF THE REPUBLIC OF CROATIA**

**Višnja Ljubičić, dipl.iur.**

Na znanje:

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