

## Croatia

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The law provides women with the same rights as men to enter into marriage and is based on consent of both spouses (Family Act, art. 13 & 14). Forced marriage is prohibited under article 169 of the Criminal Code and is punishable of imprisonment of six months to five years. Forcing a person to go to another country in order to contract a marriage there is punishable of imprisonment not exceeding three years (Criminal Code, art. 169).

Religious marriages are recognised under the law (Family Act, art. 13). De-facto unions are regulated under the provision related to cohabitation between an unmarried woman and an unmarried man who have been partners for at least three years or who have a child (Family Act, art. 11). Cohabitation entitles to personal and property effects identical to those of a marital union (Family Act, art. 11).

#### b) Child marriage

The legal age of marriage for both women and men is 18 years old (Family Act, art. 25). The Court may allow a marriage for a person who has reached the age of 16 years old (Family Act, art. 25). Child marriage is void (Family Act, art. 25 & 29). The Criminal Code stipulates that if an authorised person allows a marriage when not all requirements are met, he/she is punishable of imprisonment of up to three years (art. 168).

The CEDAW Committee (2015) notes that Roma women may be vulnerable to child marriage and may drop out of school to enter an child marriage.

#### c) Household responsibilities

The law provides women with the same rights as men to be recognised as the head of household (Family Act, art. 31). Additionally, the law provides women with the same rights as men to be the legal guardian of their children during marriage and provides women with the same rights and responsibilities as men with regards to their children during marriage (Constitution, art. 64). Women are granted the same rights as men to be the legal guardian of their children in informal unions (Constitution, art. 64). The law provides married/unmarried women with the same rights as married/unmarried men to choose where to live (Family Act, art. 32 & Constitution, art. 32).

The CEDAW Committee (2015) notes that women's and men's expected roles and responsibilities within the family and society remain closely tied to stereotypical conceptions that constrain women in their roles as mothers and wives and limit their opportunities to participate in public life and the labour force. Women hold caring responsibilities within the family for children and elderly family members (Ombudsperson for Gender Equality, 2017). This is perceived in their involvement in the labour market, as women tend to hold more part-time jobs and face higher rates of unemployment (Ombudsperson for Gender Equality, 2017). Women spend more time on household chores and

unpaid care work (Ombudsperson for Gender Equality, 2017). Estimations show that women spend on average 1, 5 to 2, 5 hours per day on household responsibilities (Ombudsperson for Gender Equality, 2017). In comparison, men spend the same amount of time on household chores per week (Ombudsperson for Gender Equality, 2017).

#### **d) Divorce**

The law provides women with the same rights as men to initiate divorce and women have the same requirements as men to finalise a divorce or annulment (Family Act, art. 50 & 51). Additionally, the law provides women with the same rights as men to be the legal guardians of their children after divorce and the same rights and responsibilities with regards to the children after divorce (Family Act, art. 54).

The CEDAW Committee (2015) stresses that the provision on mandatory mediation before divorce does not include an exception for cases of domestic violence.

#### **e) Inheritance**

The law provides daughters with the same rights as sons to inherit land and non-land assets (Inheritance Act, art. 69). Additionally, the law provides female surviving spouses with the same rights as male surviving spouses to inherit land and non-land assets (Inheritance Act, art. 69). No legal provisions were located that would restrict women's right to make a will. There is no legal discrimination regarding inheritance and it appears that no practices may restrict those rights.

## **2. Restricted Physical integrity**

### **a) Violence against women**

There is no law addressing violence against women including specific provisions for investigation, prosecution and punishment of the perpetrator and protection and support services for victims.

There are 18 women's shelters, out of which seven are led by women's NGOs (EIGE, 2016). Additionally, there is a free national call centre for victims of criminal offences and minor offences (EIGE, 2016).

Violence against women continue to be underreported and stigmatised in Croatia (EIGE, 2016). Data from 2014 shows that 1 in 5 women in Croatia have experienced physical and/or sexual violence and 31% of women have been victims of physical, sexual or psychological violence (EIGE, 2016). Femicide is occurring at a relatively high rate in Croatia, as estimations show that 23% of all murder victims are women murdered by a male member of their family (Human Rights Council, 2013). A Femicide Watch is being implemented by the Ombudsperson for Gender Equality, which would closely monitor the occurrence of women's homicide by their husbands or former and current partners (Ombudsperson for Gender Equality, 2017).

### **b) Domestic violence**

Domestic violence is included as an aggravated factor under the Criminal Code and includes increased penalties when the crime is committed within the family or out of hatred against a family member. The Criminal Code includes such provisions notably regarding aggravated murder punishable of

imprisonment of no less than ten years (art. 111), female genital mutilation punishable of imprisonment of one to eight years (art. 116), bodily injury punishable of imprisonment of not more than three years (art. 117), serious bodily injury punishable of imprisonment of one to eight years (art. 118), particularly serious bodily injury punishable of imprisonment of one to ten years (art. 119), serious criminal offences against sexual freedom punishable of imprisonment of one to ten years (art. 154), and serious criminal offence of child sexual abuse and exploitation punishable of imprisonment of no less than five years (art. 166). Two provisions on coercion and threat indicate that those offences shall be prosecuted by private action, unless it was committed out of hatred against a child, a disabled person or a family member (art. 138 & 139). The definition of family in the Criminal code covers former partners (art. 87).

The Law on Protection against Domestic Violence includes protective measures for victims, such as short-term or long-term restraining order or eviction, as well as measures directed at offenders' behaviour such as psychosocial treatment (Human Rights Council, 2013). The Law additionally includes implementation measures, such as the elaboration of the Rules of Procedure in Cases of Family Violence and the National Strategy of Protection against Family Violence (Human Rights Council, 2013). The Law covers physical, sexual, psychological and economic abuses from former partners and within the family (art. 3).

The National Strategy of Protection against Family Violence includes seven objectives, namely the prevention of family violence, the improvement of inter-sectoral cooperation of ministries, the provision of education to professionals working in the field of protection against family violence, funding for psychosocial treatment of perpetrators, the harmonization of legislation, financial support to shelters and civil society organisations and public awareness (Human Rights Council, 2013).

Shelters for victims of domestic violence are provided either by the public sector or by NGOs (Human Rights Council, 2013). However, the Human Rights Council (2013) notes that shelters are underfunded and access may be limited by bureaucratic procedures for admission. Free of charge helplines for victims of domestic violence are offered either by NGOs or by the Centres for Social Welfare (Human Rights Council, 2013). However, telephone helplines are only provided by NGOs, as the Centres for Social Welfare offer exclusively in person assistance (Human Rights Council, 2013). There are additionally specialized police officers with a training in domestic violence (Human Rights Council, 2013).

The Human Rights Council (2013) reports on the decision in *Marestiv. Croatia* which has established that misdemeanour and criminal prosecutions are mutually exclusive, which means that for cases of domestic violence, either the prosecution has to choose between misdemeanour charges and long-term protective measures under the Law on Protection against Domestic Violence or criminal charges with higher sentences. Under the Law on Protection against Domestic Violence, protective measures can only be sought in case of misdemeanour and not in case of criminal charges (Human Rights Council, 2013). Additionally, it is reported that the Centres for Social Welfare often encourage mediation and reconciliation processes in cases of domestic violence (Human Rights Council, 2013).

Furthermore, the CEDAW Committee (2015) stresses the occurrence of the practice of dual arrests of both perpetrators and victims. Victims are charged for insults or physical violence for defending themselves (CEDAW, 2015). Actions of self-defence from the victim is reportedly often misinterpreted

as intentional physical violence (Human Rights Council, 2013). The Special Rapporteur on Violence against Women, its Causes and Consequences asserts that the practice of dual arrests often leads to a diminution of the sentence for the perpetrator, as the victim would be charged for psychological violence and the perpetrator for physical violence (Human Rights Council, 2013).

Domestic violence is underreported due notably to women's lack of trust in official authorities and fear of retaliation from their partners (Ombudsperson for Gender Equality, 2017). Reports show that in the majority criminal offenses related to domestic violence, men are the perpetrators and women are the victims (Ombudsperson for Gender Equality, 2017).

### **c) Rape**

Sexual violence is addressed in the law and is punishable of imprisonment of six months to five years (Criminal Code, art. 152). Rape constitutes a criminal offense and is punishable of imprisonment of one to ten years (Criminal Code, art. 153). The law is based on lack of consent (Criminal Code, art. 152). The legal definition of rape includes marital rape and sexual violence as an aggravated circumstance punishable of imprisonment from one to ten years (Criminal Code, art. 154). Increased penalties for aggravated forms of rape and sexual violence are included in the legal framework (Criminal code, art. 154).

A Protocol for Action in Cases of Sexual Violence has been adopted in 2014 and envisions a set of procedural rules to be followed in case of rape and sexual violence to enhance cooperation between the different bodies involved (European Parliament, 2017). It notably envisions to provide medical assistance and emotional support and to protect personal data (European Parliament, 2017).

The Special Act on the Rights of Victims of Sexual Violence during Armed Aggression on the Republic of Croatia has been adopted and establishes compensation for victims of sexual assault during the 1991-1995 conflict (CEDAW, 2015). However, the CEDAW Committee (2015: 12) reports that "the failure to ensure full accountability for those responsible for violations of the human rights of women committed during the conflict means that many victims have received no reparation and/or compensation". The Special Rapporteur on Violence against Women, its Causes and Consequences highlights that impunity prevail regarding the perpetrators of sexual violence during wartime (Human Rights Council, 2013). The Special Rapporteur on Violence against Women, its Causes and Consequences further stresses that the only form of reparation under Croatian law is compensation, and that victims are denied access to psychosocial support, adequate healthcare and other forms of reparation (Human Rights Council, 2013).

Sexual violence and rape occur reportedly for most cases within the family (European Parliament, 2017). It is estimated that in 2016, 70% of involuntary sexual intercourse cases were committed by step-fathers against step-daughters (European Parliament, 2017). Additionally, 42% of reported rape cases in 2016 involved close persons or relatives (European Parliament, 2017).

### **d) Sexual harassment**

The legal framework provides legal protection, including civil remedies and criminal penalties, from sexual harassment under the Criminal Code (art. 156) and the Anti-Discrimination Act (art. 3). The legislation covers specifically the workplace, educational establishments and sporting establishment

(Anti-Discrimination Act, art. 8). No provisions could be located regarding public places and cyber harassment.

Sexual harassment in the workplace is reportedly common (Human Rights Council, 2013). Women remain reluctant to report sexual harassment in the workplace due to fear of retaliation and being mocked as well as to preserve their privacy (Human Rights Council, 2013 & Ombudsperson for Gender Equality, 2017). Sexual harassment remains a taboo and both victims and witnesses are willing to talk about (Ombudsperson for Gender Equality, 2017). The European Parliament (2017) reports that divorced and single mothers are particularly vulnerable to sexual harassment in the workplace, as employers or superior co-workers often abuse the vulnerability and the economic dependence of single and divorced mothers for whom their job is the only source of income for their family.

#### **e) Female genital mutilation**

Female genital mutilation is punishable under the Criminal Code of imprisonment of six months to five years (art. 116). Increased penalties are included if the victim is a minor (Criminal Code, art. 116). Anyone who encourages a female person to undergo female genital mutilation is punishable of imprisonment of up to three years (Criminal Code, art. 116). Female genital mutilation does not appear to be a practice of concern in Croatia (EIGE, 2013).

#### **f) Abortion**

Abortion on request is legal in Croatia under the Law Concerning the Medical Measures for Materialization of the Right to Freely Decide on the Birth of Children (CESI, 2014). The maximum number of weeks under which a woman can seek a legal abortion is ten weeks (CESI, 2014). Approval by the Commission of First Instance can be sought to perform an abortion after ten weeks only in case of serious health problems for the mother or the child, due to foetal unviability or when the pregnancy is the result of rape, statutory rape or incest (CESI, 2014). Girls under 16 years old need the permission of a parent or guardian to seek a legal abortion (CESI, 2014).

A report from the Centre for Education, Counselling and Research (2014) shows that access to abortion services is limited in some regions of Croatia, notably due to some hospitals or medical staff refusing to perform abortions because of conscientious objection as well as the cost of abortion on request. Additionally, abortion remains reportedly associated with stigma and condemnation in Croatia (CESI, 2014).

### **3. Restricted Access to productive and financial resources**

#### **a) Secure access to land and assets**

Regarding land, property and other non-land assets, married women are granted the same rights as married men to own, use, make decisions and use as collateral (Family Act, art. 36 & 39). Additionally, regarding land, property and other non-land assets, the law provides unmarried women with the same rights as unmarried men to own, use, make decisions and use as collateral (Constitution, art. 48). Furthermore, regarding land, property and other non-land assets, women are provided with the same rights after divorce or separation to own, use, make decisions and use as collateral (Family Act, art. 36

& 39). No provisions could be located that would restrict the right to joint land titling for land used or acquired by married couples or informal unions.

The CEDAW Committee (2015) notes that women have a limited access to land and their participation in decision-making processes at the community level remains low. Rural women face difficulties in participating in local social and political activities (Ombudsperson for Gender Equality, 2017). According to a shadow report submitted to the CEDAW Committee by several NGOs, property and land are traditionally owned by men (AWHZ et al., 2015). Court procedures are costly and women often lack the means to go to court to defend their right to property and land (AWHZ et al., 2015). The report also highlights that rural women are subjected to multiple discrimination (AWHZ et al., 2015). Additionally, women are likely to perform unpaid or unrecognised agriculture work, such as raising crops, taking care of domestic animals and producing agricultural products in addition to household chores and caring for the children and the elder family members (Ombudsperson for Gender Equality, 2017).

### **b) Secure access to formal financial resources**

The law provides married women with the same rights as married men to open a bank account at a formal financial institution (Gender Equality Act, art. 6). Additionally, the law provides married/unmarried women with the same rights as married/unmarried men to obtain credit (Gender Equality Act, art. 6).

There is no legal discrimination and it appears that there are no practices that may restrict those rights.

### **c) Workplace rights**

Croatia has ratified several of the International Labour Organisation Conventions, such as the Equal Remuneration Convention (No. 100), the Discrimination (Employment and Occupation) Convention (No. 111), and the Workers with Family Responsibilities Convention (No. 156).

The law mandates non-discrimination on the basis of sex in employment, including job advertisements, selection criteria, recruitment, hiring, terms and conditions, promotions, training, assignments and termination (Labour Code, art. 7 & Gender Equality Act, art. 13). The law mandates equal remuneration for work of equal value (Labour Code, art. 91 & Gender Equality Act, art. 13).

The law mandates paid maternity leave of 14 weeks with 100% of wages paid by the Government (Maternal and Parental Benefits Act, art. 12 & 24). Additional non-compulsory maternity leave can be taken until the child is six months old and can be transferred to the father (Maternal and Parental Benefits Act, art. 22). The law does not mandate paternity leave. Parental leave is available for 34 weeks with 100% of wages paid by the Government and can be used by both parents but not simultaneously (Maternal and Parental Benefits Act, art. 13, 14 & 24). The law protects women's employment security when they are on maternity leave (Labour Code, art. 34 & 36). Additionally, the Labour Code includes a provision stipulating that the employer may not request any information about pregnancy (art. 30). However, the Protection at Work Act prohibits women to work in jobs deemed hazardous (art. 37 & 73).

The law does not require women to have permission from their husband or legal guardian to choose a profession or to register a business (Constitution, art. 55). The Ombudsman/woman for gender equality is tasked with receiving, investigating and enforcing complaints based on sex discrimination in employment (Gender Equality Act, art. 19). The Ombudsperson for Gender Equality (2017) carried a project funded by the European commission which consisted in analytical, educational and regulatory activities to promote equal opportunities and access to decision-making. The project resulted notably in the creation of the Business Women Database (Ombudsperson for Gender Equality, 2017).

The choice of occupation for women in Croatia is reportedly constrained by their role at home (Human Rights Council, 2013). As a result, women tend to be more involved in the informal sector than men or they often contribute to the family business as unpaid family workers and do not hold a formal decision-making position (Human Rights Council, 2013). Women also constitute the majority of the working inactive population (59%), which increases the risk of economic dependence to family members and to poverty (Ombudsperson for Gender Equality, 2017). The CEDAW Committee (2015) highlights the horizontal and vertical occupational segregation of women in the workplace which result in women being employed in low-paid and part-time jobs. Women are overrepresented in the health insurance and social care sector and in the educational sector (Ombudsperson for Gender Equality, 2017). Vertical and horizontal segregation reveal stereotypical conceptions of women's and men's roles, abilities and interests within society (Ombudsperson for Gender Equality, 2017). The gender pay gap continues to disadvantage women; the average pay gap in the public sector is 16% and the average pay gap in the private sector is 11% (Ombudsperson for Gender Equality, 2017). Additionally, the CEDAW Committee (2015) stresses the persistence of discriminatory practices in employment on grounds of pregnancy or maternity.

#### **4. Restricted Civil liberties**

##### **a) Citizenship rights**

The law provides married/unmarried women with the same rights as married/unmarried men to acquire, change and retain their nationality (Law on Croatian Citizenship, art. 8, 21 & 10). Additionally, the law provides married women with the same rights as married men to confer nationality to their spouse (Law on Croatian Citizenship, art. 10). Married/unmarried women are provided with the same rights as married/unmarried men to confer nationality to their children (Law on Croatian Citizenship, art. 4).

Unmarried/married women are provided with the same rights as unmarried/married men to register the birth of their children (Embassy of the Republic of Croatia in the United Kingdom of Great Britain and Northern Ireland, n. d.).

The Constitution does not recognise and prohibit multiple/intersectional discrimination but establishes that all persons shall enjoy rights and freedoms regardless of race, colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics (art. 14).

No legal provisions that would restrict married/unmarried women's right to apply for identity cards could be located. Additionally, the law provides married/unmarried women with the same rights as married/unmarried men to apply for passports (Law on Travel Documents of Croatian Citizens, art. 1). Furthermore, women are granted the same rights as men to acquire passports and other travel documents for their minor children (Embassy of the Republic of Croatia in the United Kingdom of Great Britain and Northern Ireland, n. d.). The law provides unmarried/married women with the same rights as unmarried/married men to travel outside the country (Constitution, art. 32).

There is no legal discrimination regarding women's citizenship rights and right to apply to identity cards or passports and there are no practices that may restrict these rights.

### **b) Voting**

The law provides married/unmarried women with the same rights as married/unmarried men to vote (Constitution, art. 45). There is no legal discrimination regarding voting rights and there are no practices that may restrict these rights.

### **c) Political voice**

The law provides women with the same rights as men to hold public and political office, including within legislature, the executive and the judiciary (Constitution, art. 72, 95 & 119). Legal quotas to promote women's political participation at the national level have been established, notably under the Croatian Parliamentary Elections Act which sets a quota of at least 40% of both women and men for the election of representatives to the Parliament (art. 21a).

Additionally, at the national and local level, the Gender Equality Act mandates the implementation of affirmative actions to promote equal participation of women and men in legislative, executive and judicial services, including public services, and to achieve 40% of representatives of the underrepresented sex in political and public decision-making bodies (art. 12). The Gender Equality Act mandates also that when drawing up and proposing lists of candidates for the election of representatives to the Croatian Parliament, for the election of members of representative bodies of units of local or regional self-government or for the elections to the European Parliament, political parties and other authorised entities submitting such lists shall observe the principle of gender equality and seek to achieve the balance of 40% of representation of women and men on election lists (art. 15). Sanctions for failure to comply are included in the Gender Equality Act which stipulates that political parties and other entities who do not comply with the principle of gender equality and who do not seek to achieve a balance in terms of representation of women and men are punishable of a fine (art. 35). However, it appears that the 40% quota of women and men on candidate lists is not consistently applied as 54 out of 177 candidate lists for the 2016 Parliamentary elections did not meet the gender quota (Ombudsperson for Gender Equality, 2017).

The CEDAW Committee (2015) notes a significant increase in women's participation in political and public life, however it stresses that women remain persistently under-represented, in particular in Parliament, local legislative bodies, the Government and the civil service and highlights that women tend to face barriers in accessing decision-making or senior positions.



The law provides married/unmarried women with the same capacity as married/unmarried men to be sued and to sue (Constitution, art. 14 & 26). A married/unmarried woman's testimony carries the same evidentiary weight in court as a married/unmarried man's in all types of court cases such as civil, criminal, family court and tribunal (Constitution, art. 14 & 26).

The Free Legal Aid Act provides for free legal representation (Human Rights Council, 2013). Additionally, the Victims and Witnesses Protection Units provide assistance, including emotional support, to victims and witnesses involved in criminal cases (Human Rights Council, 2013). Several provisions in the Criminal Procedure Code, not directly targeting women, but that enable access to justice such as interpretation available during proceedings (art. 8), and specific rights for victims of sexual crimes such as to take counsel free of charge, to be interrogated by a person of the same sex, to refuse to answer the questions related to the strictly private life of the victim, to be interrogated via an audio-video device, confidentiality of personal data, or to request the exclusion of the public at the hearing (art. 45).

The specialized bodies tasked with monitoring gender equality are the Ombudsperson for Gender Equality and the Office for Gender Equality (European Commission, 2015). The Ombudsperson for Gender Equality has the power to receive and resolve complaints on discrimination from women victims of discrimination (European Commission, 2015). The Ombudsperson for Gender Equality also conducts research on various fields of gender equality (European Commission, 2015). The Ombudsperson received in 2016 complaints from across Croatia; 90% of cases concerned sex discrimination and 76% of complainants were from women (Ombudsperson for Gender Equality, 2017).

The Office for Gender Equality is mandated to implement governmental activities related to the enforcement of gender equality and has the power to conduct education and public awareness on gender equality and women's human rights (European Commission, 2015). The Gender Equality Act mandates that public bodies conduct sex-disaggregated statistical studies (art. 17).

The Human Rights Council (2013) reports that police forces may treat domestic violence as a private matter or only as a result of alcohol abuse and thus disregard the case. Dual arrests of victims and perpetrators are also practiced in cases of domestic violence, where the victim would be arrested for insulting the perpetrator or disturbing public order (Human Rights Council, 2013). The Special Rapporteur on Violence against Women, its Causes and Consequences asserts that the practice of dual arrests often lead to a diminution of the sentence for the perpetrator as the victim would also be charged (Human Rights Council, 2013). Furthermore, the Special Rapporteur on Violence against Women, its Causes and Consequences reports that "some judges have been known to discredit victims' experiences and ask them why they waited so long to report the violence, or allege that they are lying so as to abuse the system or obtain financial gains or property" (Human Rights Council, 2013: 17).

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