



The EU Mutual Learning Programme in Gender Equality

Support services for victims of violence in asylum and migration

Greece, 20-21 February 2018

Comments Paper – Croatia



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Justice



This publication is supported by the European Union Rights, Equality and Citizenship Programme (2014-2020).

This programme is implemented by the European Commission and shall contribute to the further development of an area where equality and the rights of persons, as enshrined in the Treaty, the Charter and international human rights conventions, are promoted and protected.

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Support services to victims of gender based violence in asylum and migration in Croatia

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1. Legal and policy framework

In September 2015, Croatia was faced with unprecedented number of refugees and asylum seekers who tried to enter the European Union through the „Balkan route“. According to official data of the Ministry of interior, from the beginning of the refugees crisis until March 2016, 658,068 persons have entered Croatia, and among them 558,724 in 2015¹. Croatia activated the EU Civil Protection Mechanism to ensure support to its own efforts in providing temporary shelter, rest, food, health, water and sanitation to all in need. Among the most vulnerable groups were women and girls victims of gender based violence (GBV).

Croatian legislation provides a satisfying framework regarding victims of GBV starting from the Constitution's articles which proclaim, among others, freedom, equal rights, peace-making, social justice and respect for human rights (art. 3), 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). The Constitution also prohibits any call for or incitement to war or use of violence, to national, racial or religious hatred, or to any form of intolerance (art. 39).

Croatia is party to a number of international human rights instruments including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Still is not a party to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), although it signed this Convention in 2013. The New National Strategy of Protection against Family Violence (2017–2022) sets up measures for ratification of the Istanbul Convention. This includes, among others, drafting the law on ratification, and harmonising existing legislation with the Convention. The Draft Act on ratification of Istanbul Convention was debated publicly in July 2017. Due to political setbacks, the ratification of the Convention was delayed despite several discussions at governmental Committee for gender equality and protests of NGOs.

The Gender Equality Act (2003, 2008, 2017,) adheres to international standards and includes the general prohibition of discrimination on the grounds of sex, marital or family status and sexual orientation. The Act prescribes the obligation to establish commissions for gender equality in all counties and the obligation to secure funds for their work. Improvements have been introduced in the area of protection against discrimination including through the use of class actions, the shifting of the burden of proof and the principle of urgency of court proceedings.

¹ Action Plan for integration of persons to whom international protection was approved 2017-2019.

The adoption of the Law on Protection against Domestic Violence (2003, 2009) has improved protection of domestic violence victims and holding offenders accountable. It provides both urgent and long-term protective measures focused on victim safety, including eviction, stalking and harassment measures, restraining orders and confiscation of weapons. The Law was amended and followed by the Rules of Procedure in Cases of Family Violence. The prohibition of physical, psychological, sexual and economic violence in the family is explicitly defined. The Rules of Procedure in Cases of Family Violence (Protocol) were adopted in 2005 and included a series of mandated procedures for the competent bodies including the police, CSWs, health and educational institutions and the judiciary. The protocol includes methods of cooperation between different bodies and has a gender-sensitive approach to victims.

The National Strategy of Protection against Family Violence (2017–2022) was adopted in September 2017 upon the expiry of the 2011–2016 policy. The areas of activity deal with: the prevention of family violence; the improvement of inter-sectorial cooperation of ministries in terms of the exchange of information and experiences regarding family violence; the provision of education to professionals working in the field of protection against family violence; the need to provide financial resources for conducting psychosocial treatment of perpetrators; the harmonisation of legislation regarding the protection against family violence; the provision of financial support to shelters and to civil society organisations; and the need to raise public awareness regarding this issue. Measures and activities of the new National Strategy adhere to the Istanbul Convention.

The National Policy for Gender Equality (2011–2015) is still in force while the Draft policy for the next period (2017-2022) is in preparation. The purpose of the National Policy for Gender Equality is eliminating discrimination against women and implementing a policy of equal opportunities. The body in charge of the supervision and implementation of the measures of this Policy is the Government Office for Gender Equality. The National Policy builds on the previous and integrates a gender dimension by implementing special measures with regard to key fields of action. Compared with previous policies, this National Policy includes cooperation with international and regional mechanisms and organisations, and promoting knowledge about the policies of the European Union and the Council of Europe. The New National policy shall continue to address combatting violence against women.

The Rules of Procedure in Cases of Sexual Violence (Protocol) were adopted in 2012. This Protocol covers cases of rape but also of other forms of sexual violence and applies to police, courts, Centres for Social Welfare (CSWs), State Attorneys, health services and other actors providing services.

The National Plan for Combating Trafficking in Human Beings 2018–2022, based on previous policies and corresponding Protocol on Reintegration of victims of trafficking provide support measure for victims of trafficking.

The National Action Plan for the implementation of UN resolution 1325 and subsequent resolutions expired in 2014 and preparation for new policy is currently in place. This policy, among others, recognises victims of sexual violence in armed conflict and could be a sufficient framework for setting psycho-social rehabilitation programmes for refugee women survivors of GBV also in countries of their destination.

1.1. Support services for women victims of violence

1.1.1. Shelters and safe houses

Shelters are run either by the public sector (cities) or by NGOs in Croatia. Autonomous and women's shelters and other NGO shelters operated by women's groups work on the principle of women's self-help, and are self-regulating and independent. They are victim-responsive and besides shelter for victims and their children, they provide them with empowerment and holistic assistance. State shelters are more bureaucratic and have stricter rules and admission procedures. Shelters face numerous challenges such as the lack of bed capacity² and insufficient funding.

Moreover, the per-bed basis does not reflect the reality that shelters' baseline operating costs are the same no matter how many residents they admit. Another barrier to safe refuge for victims is the referral system by CSWs. Public safe houses can only accept victims referred by the CSWs or police. Shelters typically provide housing to victims for a limited time, often between six and twelve months. Many NGOs allow extended stays, but due to capacity constraints, shelters are unable to provide a long-term solution. Once they leave a shelter, victims' housing options are limited, as there is no State-subsidised housing specifically for victims of domestic violence, although the status of victims of violence can increase eligibility for some public housing.

1.1.2. Victims and Witnesses Protection Units

Victims and Witnesses Protection Units were established at several courts in aim to provide assistance to victims and witnesses throughout the court proceedings. These units extended to seven different locations at county courts. Their primary goal is to provide general and emotional support and practical information to victims involved in criminal cases. Victims and witnesses are referred to these protection units through information contained in the court summons.

1.1.3. Counselling services and helplines

Counselling services are offered to women victims of violence, in the form of telephone helplines and in-person counselling services with professionals. While the NGOs providing shelters offer this type of assistance mostly to victims of domestic violence, other NGOs have set up specialised psychosocial assistance for victims of sexual violence and victims of wartime violence in the areas of the country where this occurred during the conflict. In addition, CSWs are responsible to offer free counselling services, among a variety of other services. Telephone helplines are provided by NGOs, as CSWs only offer their services in person at their offices. Telephone helplines are mostly available in larger cities during office hours.

² A report by the United Nations, including to victims of domestic violence, Development Programme (UNDP) noted that Croatia's shelter capacity on a per capita basis was at least 20 per cent below the Europe standards.

1.2. Guarantees for vulnerable groups in asylum

According to the Act on international and temporary protection (2015), vulnerable groups are defined as adults without legal competence, minors, unaccompanied minors, elderly and infirm persons, seriously ill persons, disabled persons, pregnant women, single parents with minor children, persons with mental disorders and victims of human trafficking, as well as victims of torture, rape or other forms of psychological, physical and sexual violence such as victims of female genital mutilation. Sexual orientation and gender identity are also recognised as personal circumstances by this Law. There are little specific provisions as to the processing and assessing the case of vulnerable asylum seekers and with few exceptions the same procedural guarantees are in place for vulnerable categories as for other asylum seekers. There is a general obligation to take into consideration the individual situation and personal circumstances of the asylum seeker in particular the acts of persecution or serious harm already undergone. The personal interview and decision-making mechanism is the same for all asylum seekers, regardless of their vulnerability.

According to the legislation, a vulnerable asylum seeker has the following rights in the refugee status determination procedure: to a special guardian if the asylum seeker is not capable of understanding the meaning of the procedure due to a temporary or permanent mental disorder or illness; the guardian should be appointed by the competent Centre for Social Welfare on proposal of a competent authority conducting the procedure and on basis of a medical documentation; to the possibility of being interviewed by a decision maker of the same sex; to an interpreter of the same sex, if possible, on the request of the asylum seeker where there are specific reasons for this; to be interviewed as soon as possible upon the submission of the asylum application; in cases where it is not feasible to conduct the interview for objective reasons, in particular, when an applicant is unfit or unable to be interviewed, owing to enduring circumstances beyond their control, the interview should be omitted and their relatives shall be permitted to present evidence and give statements; for the asylum application of an unaccompanied minor to be decided upon within the shortest term possible.

Furthermore, in Croatia, a system for early identification of victims of torture or other forms of ill treatment or violence has not yet been developed. According to the Law on International and temporary protection, asylum seekers who were exposed to torture, rape or other forms of serious violence and asylum seekers with special needs should be provided with the necessary treatment in connection with their specific condition and the consequences resulting from the mentioned acts. However, in practice, the system for identification of victims of torture and victims of GBV among asylum seekers has not been yet put in place.

1.3. Good practice examples

Because of this serious shortage in the system, asylum seekers who are victims of torture or other violence, and are as such in need of specific procedural guarantees, are not timely identified which in practice leads to situations where their claims are not properly assessed.

The Croatian Law Centre supported by UN Voluntary Fund for Victims of Torture, from 2010 until recently implemented the project Protection of Victims of Torture among Vulnerable Groups of Migrants in partnership with the Croatian Red Cross, the Rehabilitation Centre for Victims of Torture and UNHCR. The project focuses on

early identification of victims of torture including victims of GBV among asylum seekers. The project provides integrated legal, psychotherapeutic and psycho-social support to these vulnerable groups.

Furthermore, the Croatian Law Centre as project partner implemented the project Access to early protection and rehabilitation services right on arrival in the EU-ACESO from 2015 to 2017. Main holder of the project is the Hungarian Helsinki Committee (www.helsinki.hu) and besides Croatian Law Centre partners are: Assistance Centre for Torture Victims from Bulgaria (<http://www.acet-bg.org>), CORDELIA Foundation for the rehabilitation of torture victims from Hungary (<http://www.cordelia.hu>), Foundation for Access to Rights from Bulgaria (<http://farbg.eu>), and Greek Council for Refugees (www.gcr.gr). The overall aim of the project is to provide quality, effective and sustainable support, care and adequate treatment to victims of torture including victims of GBV. One deliverable of the project is a manual for support and care for victims of torture in asylum.

Directly targeted to victims of GBV, the Centre for Women War Victims in 2017 implemented the project Psychosocial and legal support to victims of GBV and harmful practices. The project provided legal counselling and representation before court as well as individual and group psychotherapy treatment for women survivors of GBV and harmful practices.

1.4. Learning

The positive Greek experience is applicable to the situation in Croatia having in mind that the General Secretariat for Gender Equality (GSGE), as the competent state entity in Greece for combatting all forms of violence against women, undertook the necessary actions to bring together all relevant public stakeholders in order to locate the target groups (women refugees and asylum seekers) and to provide services to victims of gender based violence, such as psycho-social support, legal counselling as well as counselling in employment issues, providing shelter, food and when necessary legal aid. Those initiatives were based upon already existing policies, action plans and structures and initially concern all women, but it was decided to expand the services to women refugee and asylum seekers and to add services such as employment counselling to the ones already offered. From a practical point of view, establishing a Coordination Group and signing the Protocol of Cooperation (PoC) among the public actors in order to identify, accommodate and provide urgent services to specifically women who have been victims of gender-based violence or/and women exposed to serious risk of gender based violence and single women and their children could be transferred as success model to similar structures in Croatia. Namely, under the competent body the Governmental Office for Human Rights and Rights of National Minorities, a Working group responsible for overall migration policy already existed in Croatia.

1.5. Recommendations

- Include gender perspective in migration policies at national and international level and establish mechanism for its implementation;
- Take the necessary measures, including financial, to maintain existing and set up new anti-violence shelters for the assistance and protection of women victims of violence and extend services to the victims of GBV in asylum and migration;
- Strengthen measures to identify and provide support to women and girls in asylum who are victims or at risk of trafficking;

- Utilise UN Resolution 1325 in strengthening support programmes for victims of GBV in asylum and migration;
- Implement International Protocol on Investigating and Documenting Sexual Violence in Conflict (PSVI) in order to document women/human rights violations and contribute to combatting impunity of perpetrators.