Domestic violence in Croatia 2012
By Rosalyn Park

Domestic violence in Croatia is a serious problem, and it affects women of all ages, backgrounds, and statuses. In 2010 alone, the Croatian Ministry of the Interior reported 15,189 reported domestic violence offenses.

Fortunately, Croatia has a domestic violence law. The Law on Protection against Domestic Violence (LDPV) was passed in 2003 and later amended in 2009. It provides both urgent (emergency) and long-term protective measures focused on victim safety, including eviction, stalking and harassment measures, restraining orders, and confiscation of weapons. It also provides two measures directed at offenders’ behavior, including psychosocial treatment and addiction treatment. While a victim may, on her own, apply for protective measures under the law, most often, police file for these measures on behalf of victims. The law’s jurisdiction lies in the misdemeanor system, whose judges decide whether to issue the protective measures and for what term, as well as impose a jail sentence or fine on the offender. A violation of the protective measure is punishable by a fine or imprisonment of at least ten days. By passing one of the first domestic violence laws in the region, the Croatian government has not only demonstrated its commitment to combating domestic violence but also presented itself as a leader in this effort.

But having a law on paper is not enough. Police, judges, prosecutors, Centers for Social Welfare, and others must effectively implement the law in a way that protects victim safety and promotes offender accountability. Gender-sensitive training on the dynamics of domestic violence, the LDPV, and other policies for all actors in the justice system are imperative to promoting ensuring laws work effectively. Monitoring is also essential to evaluate implementation. In order to evaluate how a law is functioning, The Autonomous Women’s House Zagreb, The Advocates for Human Rights, and the Bulgarian Gender Research Foundation carried out fact-finding in Croatia to monitor the government’s implementation of domestic violence legislation. The authors conducted interviews with many different systems actors and NGOs. They published their findings in a report, Implementation of Croatia’s Domestic Violence Legislation (2012).

The report details many urgent issues where victim safety is endangered or perpetrators are treated with impunity. One of the most alarming findings is the prevalence of dual arrests. Dual arrests, where the victim is arrested alongside the offender, are widespread throughout Croatia. These dual arrests stem partly from the language of the LDPV. The LDPV classifies psychological and economic violence as domestic violence in very broad terms, and this provision is implemented against the victim regardless of the danger or threat the perpetrator poses to the victim’s safety. This means that a victim who has verbally insulted her offender can be prosecuted and held accountable alongside her abuser who has physically beaten her. A second contributing factor to the high rates of dual arrests is that police are not systematically identifying the primary aggressor in domestic violence cases. Instead of making determinations of the primary aggressor and
defensive injuries, police generally defer that identification to judges and doctors, respectively. As a result, many victims not only face the very real potential for arrest when they call for help, but also ensuing charges and punishments for defending themselves against the assault. The impact of arresting and charging a victim of domestic violence for attempting to defend herself can be devastating—after she has been punished once for seeking help, a victim will not likely access the justice system again.

Police and judges also limit offender accountability for violence under the LPDV by favoring treatment over other sanctions. Specifically, police and judges tend to propose and issue psychosocial and addiction treatment, weapons confiscation, and to a lesser extent, restraining orders, under the LPDV. This inclination toward batterers’ programs is problematic both because of questions regarding their efficacy and the lack of a monitoring mechanism to ensure the offender’s compliance. Moreover, the tendency to favor even order batterers’ treatment in lieu of other protective measures or jail can compromise victim safety. Many interviewees questioned the effectiveness of psychosocial treatment programs, in part because there is no evaluation to gauge its success aside from personal observations about recidivism, and there is no systematic monitoring and reporting system if the offender fails to attend. There were also concerns about the quality of such programs, particularly where women victims are required to undergo family therapy with the offender or are blamed for provoking the violence. Furthermore, a serious lack of funding and treatment administrators means that psychosocial programs are simply unavailable in many parts of the country. Moreover, batterers’ treatment programs run the risk of diverting much needed and scarce resources away from services for the victim, such as shelters.

In contrast, requests and orders for evictions and stalking and harassment protective measures are comparatively low despite their proven capacity to protect victims. Of the 9,833 protective measures requested in 2008, only 72 stalking and harassment prohibitions were issued (out of 233 requested), and only 109 evictions (out of 377 requested) were granted. Even if the offender is sentenced to jail, he may receive a suspended sentence conditioned on good behavior, community service in lieu of part of the prison sentence, or early release on probation. Although these sentences make eviction and stalking/harassment measures even more crucial for victim safety, police and judges still do not propose or issue them. For example, concern for offenders’ welfare if they are expelled from the home biases some decision makers against eviction measures. In addition, a victim’s residence in a shelter is another reason for denying an eviction order when legal actors infer she is safe. That reasoning fails, however, to take into account those offenders who find their victims at shelters that lack a secret address, shelters’ time limits on residency, and their susceptibility to closures from funding cuts. The low numbers of stalking and harassment orders may stem from a failure to adequately recognize and appreciate the dangers of these acts. Police explained they can only request this measure when the offense itself is stalking or harassment, but yet they fail to recognize these acts and respond when offenders skirt the perimeters of a restraining order by stalking the victim.
Another finding of concern is the staying power of appeals. A domestic violence victim is put at risk of further harm during the pendency of an appeal of a protective measure by her abuser. When an offender files an appeal against a decision, the protective measures are stayed until the appeal decision is rendered. The victim is left without the legal mechanism to protect herself against an offender who may be angry and vengeful. In addition, victims whose protective measures are denied often find themselves without standing to file an appeal themselves. Because police often act as prosecutors in these cases, they have the legal authority to appeal the decision. Police resources and capacity to make appeals, however, is very limited.

Finally, the challenges shelters face in receiving the sufficient and regular funding they need compound the risk of further harm to domestic violence victims. The current funding schemes are complicated and pose massive challenges for organizations providing these accommodations. The government’s funding conditions generally fail to reflect the actual needs and operations of a shelter. Such conditions, in turn, reduce shelters’ autonomy, forcing them to follow strict and at times, irrelevant criteria in order to garner financing. For example, the Ministry of Health and Social Care finances homes for adult and child victims of family violence on a per-bed basis, but this funding is contingent upon the homes receiving client referrals from police and Centers for Social Welfare. Moreover, the per-bed basis does not reflect the reality that shelters’ baseline operating costs are the same no matter how many residents are residing there. Autonomous women’s shelter funding from the Ministry of Social Policy and Youth is allocated on a tri-partitioned basis from the Ministry-county-city governments, so payment delays by one government source often leads to disbursement delays by the other two levels. Even when the financing comes through, the amount is often insufficient. As a result, shelters in Croatia are often forced to suspend payment to their employees for months at a time, or, in the worst case, close. One shelter serving a major population has been forced to close multiple times, due to the unreliable and inadequate funding from the government. With approximately 18 accommodation institutions, including both autonomous shelters and homes for adult victims of family violence, to serve a population of 4.5 million, the need to ensure these organizations and institutions can remain open and function effectively is critical.

After publishing the report, The Advocates and AZKZ have continued their advocacy. They made a List of Issues submission to the U.N. Human Rights Committee for Croatia’s upcoming review on its compliance with the International Covenant on Civil and Political Rights. The report, which can be read here: http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AHRAWHZ_Croatia_HRC105.pdf addresses the most urgent and pressing issues found during the monitoring. The U.N. Human Rights Committee adopted many of these findings and, in its List of Issues for Croatia, stated the following with regard to violence against women (Articles 3 and 7):

10. In light of the Committee’s previous concluding observations (para. 8), please report on the impact of the implementation of the National Strategy for Protection from Domestic Violence 2008-2010. Please provide statistical data covering the period under review on the number of complaints filed concerning different forms of violence against
women and the number of convictions handed down, including the sentences imposed and the compensation awarded to the victims. Please also provide updated information on existing support services for victims of domestic violence, including the number of State-run facilities available to women needing temporary accommodation and/or the amount of funding provided by the State organizations operating such facilities. In this regard, please comment on reports according to which shelters for victims of domestic violence face severe funding shortages.

11. According to the information available, dual arrests and convictions of both the perpetrator and the victim of domestic violence are prevalent throughout Croatia. Please comment on these reports and explain the scope of the protective measures provided for in the Act on Protection against Domestic Violence (OG 13/09, 14/10, 60/10), in particular with reference to the conditions under which they may be granted. Please clarify whether the filing of an appeal by the offender does automatically suspend or stay execution of all protective measures, including restraining orders. Please also provide detailed information on gender-sensitive training and awareness-raising programmes for law enforcement officials, health-care personnel and social workers in direct contact with the victims.

The Advocates and AZKZ will continue to conduct advocacy using their findings to promote victim safety and enhance offender accountability. To read more about domestic violence, please visit the Domestic Violence section of StopVAW.