



**PERMANENT MISSION OF THE REPUBLIC OF CROATIA
TO THE UNITED NATIONS OFFICE AND
OTHER INTERNATIONAL ORGANIZATIONS
GENEVA**

No. 50/23

The Permanent Mission of the Republic of Croatia to the United Nations Office in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, Special Procedures Branch, and, referring to the joint communication from Special Procedures (REF: AL CRO 1/2022) of 24 November 2022, has the honour to forward the response from the Government of Croatia.

The Permanent Mission of the Republic of Croatia to the United Nations Office in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, Special Procedures Branch, the assurances of its highest consideration.

Geneva, 31 January 2023



**UNITED NATIONS OFFICE IN GENEVA
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
SPECIAL PROCEDURES BRANCH**

RESPONSE OF THE REPUBLIC OF CROATIA FOLLOWING THE JOINT COMMUNICATION OF THE SPECIAL PROCEDURES, REFERENCE No: AL CRO 1/2022.

In relation to the communication under the number referenced above, regarding the United Nations Human Rights Special Procedures to the Republic of Croatia in the case of Mirela Čavajda, the Republic of Croatia would like to state as follows:

The allegations of the unavailability of the procedure for medically-indicated termination of pregnancy after the 22nd week of pregnancy are entirely false. In the period from 2019 to 2022, 46 terminations of pregnancy after the 22nd week were performed in hospitals in the Republic of Croatia.

Considering the medical complexity of the pregnancy termination procedure and the legal framework in that area, in 2022 the Croatian Society for Perinatal Medicine of the Croatian Medical Association initiated activities related to the adoption of an expert opinion, i.e. guidelines for medical termination of pregnancy procedures, in order to further improve this segment of women's healthcare.

Regarding the specific case of patient Mirela Čavajda, the healthcare inspection of the Ministry of Health carried out healthcare inspections in the healthcare institutions of University Hospital Sveti Duh, University Hospital Centre Sestre milosrdnice, University Hospital Merkur and the Polyclinic "Dr. Ulla Marton". These inspections revealed procedural failings in University Hospital Sveti Duh and University Hospital Centre Sestre milosrdnice only as regards the procedure for referring the patient to the second instance commission at the University Hospital Centre Zagreb. Consequently, two decisions were passed on measures to be taken in University Hospital Sveti Duh and University Hospital Centre Sestre milosrdnice and one motion for indictment which resulted in a misdemeanour court order against University Hospital Sveti Duh as an institution as well as against its responsible person. In the meantime, University Hospital Sveti Duh has filed an appeal against the order, and the procedure is ongoing.

Regardless of the established procedural failings, the patient was provided with all the available healthcare services within the framework of the medical profession and the legal provisions in the Republic of Croatia. It is also important to note that in March 2021, the Ministry of Health authorised the University Hospital Centre Zagreb to establish a second instance commission, which, according to the Act on Health Measures for the Exercise of the Right to Free Decision on Childbirth, makes decisions precisely with the aim of ensuring the rights of women in respect of appeals against first instance decisions. Thus, in this case as well, following the appeal by patient Čavajda which was submitted on 9 May 2022, University Hospital Centre Zagreb convened a second instance commission just two days later, on 11 May 2022, in order to create complete clinical features of the child and, pursuant to this, issue an applicable decision in accordance with the profession and the regulatory framework.

Amidst pronounced public and political pressure during the second instance commission's decision-making, a medically-based decision was made, within the framework of Croatian legislation, and the patient was granted the covering of the medical costs of the pregnancy termination procedure outside the Republic of Croatia at the expense of the Croatian Health

Insurance Fund, as she decided in favour of a different type of procedure that is not performed in the Republic of Croatia.

It should be further emphasised that the Ministry of Health informed all healthcare institutions in a timely manner about the authorisation granted to the University Hospital Centre Zagreb to establish a second instance commission for resolving appeals against first instance decisions in cases such as and similar to this one. It will also continue to insist that all hospital managers and personnel of healthcare institutions fulfil all the tasks set before them in a conscientious and responsible manner and that they provide every patient with medical and healthcare services according to their real needs and within the Croatian regulatory framework.

It is a fact that the Ministry of Health is a state administration body which, in accordance with legal provisions, receives and drafts responses to petitions and complaints as well as offers help to citizens in exercising their rights in the area of health protection. Thus, it is not unusual that Minister of Health Vili Beroš offered the same opportunity to patient Čavajda with the aim of gaining direct insight into the issue at hand and offering support in ensuring adequate healthcare.

Pursuant to the Act on Health Measures for the Exercise of the Right to Free Decision on Childbirth, the hospital healthcare system is organised in such a manner that healthcare institutions authorised to perform elective pregnancy termination procedures are required to provide this service.

Availability of pregnancy termination procedures is ensured in all hospital healthcare institutions in the Republic of Croatia by the personnel of those institutions or in such a manner that a contract ensures such a service by an external physician or by referring the patients to another institution pursuant to a contract signed between the institutions in question.

If a gynaecology physician claims a conscientious objection, they are obliged to inform the patient about it, describe this in writing in their specialist report and hospital medical records, and refer the patient to another physician of the same medical specialisation in the same hospital. In cases when the hospital manager cannot ensure the pregnancy termination procedure to be performed by hospital personnel, they are required to hire an external collaborator, a doctor of medicine specialised in gynaecology and obstetrics. In case that a large number of physicians claim a conscientious objection, hospitals enter into a contract on performing elective pregnancy termination procedures in the same manner as they would in cases of other insufficient provision of activities and services. At the same time, it is important to emphasise furthermore that a physician's conscientious objection and a woman's legal right to pregnancy termination and the actual termination of pregnancy are not mutually exclusive, and that healthcare institutions are required to ensure conditions for the exercise of both rights.