

Mandate of the Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
OL CRO 2/2016

21 October 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolution 32/19.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the decision from the Ministry to deny a license on minimum requirements for provision of social services for the **Autonomous Women's House Zagreb**.

According to the information received:

Autonomous Women's House Zagreb (AWHZ) is a non-governmental organization, which has been providing services to women victims of domestic violence for over 20 years. In 2007 AWHZ signed a contract with the city of Zagreb, to run a shelter for women and children victims of domestic violence. The contract included a declaration that the location of the shelter would be classified as an official secret, in order to effectively protect the beneficiaries from further attacks.

For several years AWHZ received state funding to run the shelter. On 9 December 2015, the Ministry for Social Policy and Youth published a call for proposals (tender) for a three-year programme for NGOs providing shelter and counseling services for women and children victims of family violence, with a deadline for application on 11 January 2016. One of the conditions for participation in the tender was that the candidates had to have applied for a *License certifying minimum requirements for provision of social services*. The licensing system had been introduced in 2009, but obtaining a license had never before been a precondition to apply for state funding to run a shelter. AWHZ wanted to meet the requirements and applied for a license on 7 January 2016.

The licensing process under the Law on Social Welfare includes an inspection of the premises to be conducted by a commission, appointed by the Ministry for Social Policy and Youth. AWHZ was seriously concerned that the inspection of the premises by a commission would lead to a disclosure of its location and jeopardize the security of the victims sheltered there. AWHZ was further concerned that the licensing regime included further inspections by staff of the Ministry for Social Policy and Youth at any time, which would enlarge the number of individuals knowing the location of the shelter and further jeopardize

its secrecy. AWHZ attempted to negotiate with the Ministry in order to ensure that the required inspection is conducted by one staff of the Ministry only and provided documentation, photographs and even the possibility to observe the shelter through a video link. Despite these efforts, the negotiation failed and on 5 September 2016, the Ministry for Social Policy and Youth issued a decision refusing to grant a license, on the sole ground that an inspection could not be conducted by one inspector only, as suggested by AWHZ, but must be conducted by a commission, as required by articles 184 and 185 of the Law on Social Welfare and articles 249-252 of the *Regulations on minimum requirements for the provision of social services*. AWHZ hence lost the opportunity to participate in the tender and to secure funds for the functioning of the shelter in the next three years. AWHZ currently has funds to maintain the shelter until the end of November 2016, after which they will have to close and the victims hosted there would be left destitute, without any protection and possibly compelled to return to abusive and violent situations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the text of the relevant legislation regulating the establishment and management of shelters for domestic violence and the classification of information as official secret.
3. The 5 September 2016 decision of the Ministry for Social Policy and Youth states that it may not be subject to appeal. Please provide clarification as to the existing legal avenues for the AWHZ to challenge the decision of the Ministry, if any.
4. Please provide information regarding any other state funding mechanisms that the AWHZ could apply for to try to ensure the continued funding of the shelter.
5. Please provide detailed information as to what measures the Ministry for Social Policy and Youth and/or other state authorities are planning to take to ensure the protection of the rights and safety of the women and children hosted in it, in the event of the shelter's closure.

I would appreciate receiving a response within 60 days.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, I would like to recall that the previous Special Rapporteur on violence against women had highlighted in her report (A/HRC/23/49/Add.4, paras 42-43) that shelters in Croatia face numerous challenges, that the two funding schemes under the Ministry of Social Policy and Youth are complicated and pose challenges for organizations running these shelters and that the Government's funding conditions generally fail to reflect the actual needs and operations of a shelter.

I would also like to refer your Excellency's Government to the concluding observation of the Committee on the Elimination of Discrimination against Women (CEDAW/C/HRV/CO/4-5, paras 18(g) and 19(g)). In 2015, the Committee was concerned by the inadequate number of shelters for women who are victims of violence and urged the State to provide adequate, secure and autonomous funding to shelters and support services for women who are victims of violence.

I would like also to refer your Excellency's Government to the fundamental principles set forth in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Croatia ratified on 9 September 1992. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention (See CEDAW General recommendation No 19: Violence against women, paras 6-7).

In addition, we would like to draw specific attention of your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Croatia ratified on 12 October 1992. The ICCPR underlines that the State shall respect and ensure the rights of all individuals, without any distinction of any kind, including of sex (art.2.1), the obligation of each State Party to take the necessary steps, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the ICCPR (art.2.2), to be free from inhuman and degrading treatment or punishment (art.7), and the right to one's privacy and family (art.17). The right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12) as set forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded by Croatia on 12 October, 1992 is also relevant to the matters discussed in this letter.