

Response of the Croatian Authorities on the safety of the journalists and the issue of impunity

Regarding to the point 5 related to the fight against gender and gender-based discrimination, including violence and incitement to hatred against journalists, we point out that the Criminal Code (Official Gazette, No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, hereinafter: CC), in Article 87, paragraph 26 contains a provision regulating gender-based meaning, according to which words and conceptual entities having gender significance, regardless of whether the law is used in male or female, relate equally to male and female gender.

Article 87, paragraph 21 of the CC defines hate crime as a criminal offense committed on account of person's race, color, religion, national or ethnic origin, language, disability, sex, sexual orientation or gender identity of another person and such behavior shall be taken as an aggravating circumstance if the CC does not explicitly prescribe more severe punishment. Furthermore, the CC in the Special Part contains a series of criminal offenses committed "out of hatred", such as: aggravated murder, female genital mutilation, bodily injury, severe bodily injury, aggravated assault, serious bodily injury resulting in death, serious bodily injury caused by negligence, coercion, serious criminal offenses against sexual freedom and public incitement to violence and hatred, which is incriminated in Article 325 of the CC. That offense may be committed by anyone who in print, through radio, television, computer system or network, at a public rally or in some other way publicly incites to or makes available to the public tracts, pictures or other material instigating violence or hatred directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, language, descent, colour, gender, sexual orientation, gender identity, disability or any other characteristics. Also, this criminal offense incriminates public approval, denial or significant trivialisation of the crimes of genocide, crimes of aggression, crimes against humanity or war crimes, directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent or colour in a manner likely to incite to violence or hatred against such a group or a member of such a group.

Regarding to the point 10 of the Questionnaire related to the effectiveness of the investigations, we note that Article 11 of the Criminal Procedure Act (Official Gazette, No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12 56/13, 145/13, 152/14, 70/17, hereinafter: CPA) stipulates that the proceedings must be conducted without delay, and in proceedings where the defendant has been temporarily deprived of liberty, the court and state bodies will act particularly swiftly. The Court and other state bodies shall prevent any abuse of the rights which the participants in the proceedings have, and to party, defence counsel, injured party, proxy or statutory representative by any of his acts evidently abuses a right provided for in the present Act, the court shall issue an order denying him the right to this act. The effectiveness of the investigation is also ensured by Article 229 of the CPA, according to which the investigation must be completed within six months from the date the decision on the conduct of the investigation became final. Where there are justified reasons for this, the state attorney may extend the time limit by six months at most. By way of exception, if the investigation could not be completed within the time limit then State Attorney General may extend the time limit by six months at most. If upon expiry of the time limit the investigation is not completed, the defendant has the right to file a complaint with the judge of investigation of undue delay of the proceeding. If the judge of investigation establishes that the defendant's complaint is well-founded, he/she shall issue a decision setting the time limit by which the state attorney must complete the investigation.

In relation to the appropriate remedies, the victim of a criminal offense shall have the right to be informed by the state attorney of the acts performed as a result of his/her complaint and the right to complain to a senior state attorney, according to Article 43, paragraph 1, point 9 of the CPA, while the injured party, additionally, shall have the right to file an appeal (Article 51 paragraph 1 point 9 of the CPA).

In accordance to the point 11 b) of the Questionnaire, in part related to sexual and gender-based discrimination and violence against women journalists, as well as the particularities of online threats and harassment of women journalists, it is important to emphasize that Article 139, paragraph 1 of the CC prescribes that whoever seriously threatens another with some evil in order to intimidate or disturb him or her, shall be punished by imprisonment. If the mentioned criminal offence was committed against a journalist in connection with his or her job, it is considered as a qualifying circumstance and the perpetrator shall be punished more severely. Also, according to Article 127, paragraph 2 of the CC, whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limits this freedom shall be punished. In relation to the remaining part of the query, *mutatis mutandis* stated in point 5.

Regarding the point 11 g) of the Questionnaire, in accordance to encourage women journalists to report criminal offenses against them as well as providing adequate support to victims, we point out that the Article 204 of the CPA prescribes that everyone is required to report a criminal offense prosecuted *ex officio* (and which criminal offenses mentioned in this statement are) of which he was informed or which came to his knowledge. Cases in which a failure to report a criminal offense is a criminal offense shall be prescribed by law. Regarding this, Article 302 of the CC prescribes failure to report the commission of a criminal offense for which a punishment of ten years of imprisonment or a more severe punishment is prescribed, and also prescribes cases of failure to report the commission of a criminal offense committed by a public official or a responsible person who fails to report the commission of a criminal offense which he or she has come to know about in the course of performing his or her duties and which is prosecuted *ex officio*.

In accordance to the Article 43a, paragraph 1 of the CPA, before questioning the victim, the body conducting the questioning shall carry out, in cooperation with the bodies, organisations or institutions providing assistance and support to victims of criminal offenses, an individual assessment of the victim. The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones (special method of questioning the victim, use of communication technology so as to avoid visual contact between the victim and the perpetrator and other measures provided for by law). The individual assessment of a victim shall take into account the personal characteristics of the victim, the type or nature of the criminal offences and the circumstances of the criminal offence. Victims of gender-based violence and hate crime shall be duly included in the individual assessment. The victim of a criminal offense shall have, *inter alia*, the right to access services providing support to victims of criminal offenses, the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of criminal offenses as provided for by law, the right to protection from intimidation and retaliation and the right to protection of the dignity of the victim when testifying, according to the Article 43 paragraph 1 of the CPA.