

**Joint Submission to Inform a Joint Report of the
Special Rapporteur on the right to adequate housing and of the
Special Rapporteur on extreme poverty and human rights
on the Issues of Decriminalization of homelessness and extreme poverty
In the Republic of Croatia**

Prepared by



**CENTRE
FOR PEACE
STUDIES**



15 September 2023

Information about the submitting organisations

The **Centre for Peace Studies** (Croatian abbreviation: CMS; English abbreviation: CPS) is a civil society organisation that protects human rights and pursues social change based on the values of democracy, anti-fascism, nonviolence, peacebuilding, solidarity and equality using activism, education, research, advocacy and direct support. We work with communities, initiatives, organisations, media, institutions and individuals in Croatia and internationally. CPS's vision is an open and non-violent society based on solidarity, whose institutions enable peace, social security, political and economic equality and freedom for all people. Taking into account the balance between their own existence and the environment, members of society actively participate in decision-making, management of public goods and development of their communities.

The **Ambidekster klub** is a non-governmental and non-profit association which, through its activities through innovative programmes and projects and professional interventions based on the principles of participation of users themselves as well as stakeholders from the community, wants to contribute to a better life of young people in Croatian society. The mission of the Ambidekster klub is to contribute to the protection of human rights, social inclusion and raising the quality of life of individuals and groups, in particular groups of children and young people at risk of social exclusion such as children and young people with behavioural problems and other groups of children and young people with fewer opportunities who encounter obstacles to social inclusion.

Misdemeanour punishment

According to the Act on Misdemeanours Against Public Order and Peace ([Official Gazette 41/77, 55/89, 05/90, 30/90, 47/90, 29/94, 114/22, 47/23](#)), loitering and begging are punishable by a fine of between EUR 20 and 100 or by imprisonment of up to 30 days. This offence is among those for which homeless people are more frequently punishable. Article 12 provides for the same punishment for “exposure to prostitution”.

On the occasion of the World Day of Social Justice, the Centre for Peace Studies organised the country's first round table on the issue of criminalisation of poverty. Regarding the specific position of women, the round table was closed by Ivana Radačić of the Institute of Social Sciences Ivo Pilar and the vice president of the working group on discrimination against women and girls in the UN. The report on women who were deprived of freedom made in 2019 within this working group, Radačić noted, showed not only that women are disproportionately in a position of poverty but also that their path to prisons and other institutions often leads precisely through economic unfreedom and criminalization of poverty. The intertwining of gender and poverty becomes even more complex in the case of homeless women, Roma women or pensioners, Radačić explained, adding that intersectional discrimination is particularly evident in the way the system sanctions the most vulnerable: “It is one thing when a fine Croatian family finds itself in a position of poverty, and another when it happens, say, to a Roma woman engaged in prostitution. The criminal and misdemeanour system will focus on just such people.”

The analysis of the practice of misdemeanour courts in Zagreb, Rijeka and Split regarding Article 12 of the Law on public order and Peace violations concerning “exposure to prostitution”, explains Radačić, shows that most persons who practice prostitution are punished for very difficult material conditions. “The myth is that prostitution is done only by people who can't do anything else; some choose it for the sake of informality, easier organization of time and better profits. But a large number of people do this job to survive, especially women who have many children, debts, or addiction problems. The target of the judicial system is those persons,” Radačić says. “Voluntary prostitution of adults should not be punished, but even if you take the view that it is punishable, how is it that in the practice of misdemeanour courts,

you see only a population that is marginalised and not those that, for example, engage in “elite prostitution”?” Radačić asked and added that among judges and policemen, similar to the homeless, there is an understanding that punishing marginalised women, who will have to make money to pay the fine again on the street, is pointless. However, the law does not change. Radačić finally pointed out words that further underlined previous presentations but also left a lot of material for further work on the topic: “The more marginalised a person is, the more quickly criminal law will reach him and make it harder to punish him. The system itself is pushing them into an even more unfavourable position through criminalization.”¹

Not being in possession of identity documents is also punishable. Under the ID Act ([Official Gazette 62/15, 42/20, 144/20, 114/22](#)), a person who does not have an ID card with him or refuses to give it to officials will pay a fine of EUR 20. Per the same article, a person who does not report him missing or find an ID card will be punished, too. If a person from the age of 18 has a permanent residence in the Republic of Croatia and does not have an ID card, they may be fined from EUR 390 to 590 (Article 27).

Persons with whom we work and who are homeless in the Republic of Croatia are punished for misdemeanours in connection with the lack of an ID card. Also, they still have problems registering their permanent and temporary residence. Although the situation is slightly better than when the Social Welfare Act ([Official Gazette NN 18/22, 46/22, 119/22, 71/23](#)) allowed the homeless to register at the address of the Croatian Institute for Social Work, it is sometimes an unfavourable solution for them because of the procedure and because they have to register at the address of the last branch that was competent for them according to where they had their last residence, and that is sometimes far from where they actually reside.

Health insurance

The Act on Amendments to the Compulsory Health Insurance Act ([Official Gazette 80/13, 137/13, 98/19, 33/23](#)), which entered into force on 1 April 2023, brings new information for unemployed persons, insured persons of the Croatian Health Insurance Fund (CHIF) who are not kept in the register of unemployed persons of the Croatian Employment Service (CES). Namely, the Act stipulates the obligation of unemployed persons, insured persons of the CHIF, who, at the date of entry into force of the Act, were found in the status of insured persons in compulsory health insurance as persons with permanent residence or approved permanent residence or long-term residence in the Republic of Croatia because they applied to the CHIF within the prescribed period, to personally accede the nearest organisational unit of the CHIF within 90 days from the date of entry into force of the Act, and no later than 29 June 2023, to verify the circumstances based on which their status was established. After the first personal access to the CHIF, which is obligatory within 90 days from the date of entry into force of the said Act, the same obligation remains in force, i.e. the said insured persons must report to the CHIF in person once every three months for further regular verification of the circumstances based on which their status was established, except during the time they are kept in the records of the unemployed persons of the CHIF. Suppose insured persons do not personally accede to the CHIF within the prescribed deadlines (no later than 29 June 2023 and later once every three months). In that case, the CHIF will sign them off from compulsory health insurance of its motion without issuing a decision.

¹ Centre for Peace Studies (2023): Round table on criminalisation of poverty held on the occasion of the World Social Justice Day. URL: <https://www.cms.hr/hr/suzbijanje-diskriminacije/povodom-svjetskog-dana-socijalne-pravde-odrzan-okrugli-stol-o-kriminalizaciji-siromastva>

These amendments are resulting in persons losing their formerly universal health care for the first time in Croatian history. The principle idea behind the legal solution is to remove Croatian citizens living and working abroad who use Croatian health insurance from the Croatian health care system. Indeed, it is a legitimate target, but it should be able to be resolved ex officio based on the control of the permanent residence register. The law, in its current form, however, can have an unexpected adverse effect on the domestic impoverished rural population. Personally acceding to the CHIF office costs money because paying for (public) transport is necessary, etc. In addition, it is questionable what is proven by personal approach every three months since this is not necessarily adequate proof that someone lives or does not live in the Republic of Croatia. Therefore, such a legal solution is potentially discriminatory based on the citizens' economic status.

Instead of requiring a periodic personal visit, the Ministry of Health could seek a solution to network data between different bodies and strengthen their cooperation. For example, it was possible to strengthen the cooperation of the CHIF with inspection bodies and to connect with the records of the Ministry of Finance – tax Administration (regarding tax residency) and the Ministry of the Interior (to control the status of Croatian citizens residing and working abroad without regulating the change/check-out of residence in Croatia).

Such a solution puts a heavy burden on those citizens who cannot move or can only move with the help of others or are being treated in a health care facility and therefore cannot come in person. An additional problem is if they live in places that do not have public transport or it is not well organized to the place where the closest CHIF office is located. Citizens in these situations will be at risk of being discriminated against on the grounds of disability and state of health, as well as their financial situation and placed in an unequal position before the law (Anti-discrimination Act, [Official Gazette 85/08, 112/12](#)).

The specific problem is that the CHIF will not issue decisions to citizens that they have been signed out of health insurance unless they request it themselves. However, it is questionable how many will have information about this possibility, and since it is not possible to appeal without a solution, that means, in practice, they will be denied the right to appeal.

Therefore, the Ombudsperson's Office took over the task of informing² all citizens who have lost compulsory health insurance because they did not report to the CHIF in due time that they can request the adoption of a decision, which will enable them to protect their rights in individual administrative procedures.

Moreover, the Ombudsperson filed a constitutional review request in which she proposed to the Constitutional Court to issue a decision to temporarily suspend the implementation of these provisions until the final decision was made. In view of a number of different information available to the public, the Ombudsperson also proposed that the Constitutional Court decide on the substance of the matter on the basis of a public hearing to which it will invite representatives of the Ministry of Health as the expert holder of the Act on Amendments to the compulsory Health Insurance Act and the Croatian Health Insurance Institute, as the implementing body. This is because, in particular, the amendments to the Act did not clearly define the objective pursued, nor did it specify whether and, if so, why less onerous

² Ombudsperson's Office: The Ombudsman requested the constitutional review of amendments to the compulsory Health Insurance Act, 03.07.2023, URL: <https://www.ombudsman.hr/hr/pucka-pravobraniteljica-zatrazila-ocjenu-ustavnosti-izmjena-i-dopuna-zakona-o-obveznom-zdravstvenom-osiguranju/>

measures, such as the networking of data between authorities, were considered and, if so, why no less onerous measures were chosen.

The Ombudsperson warned of these problems even before the said Act was sent to parliamentary procedure, i.e. during public consultations, as well as in debates at parliamentary committees. She continued to warn the authorities after the law entered into force, working on citizens' complaints, as well as publicly through the media. Since there were no indications that such a decision would be taken into account or considered, the Ombudsperson turned to the Constitutional Court and provided it with all the information and arguments at her disposal.³

³ *ibid.*