

THE IMPACT OF THE PROCESS OF EUROPEANIZATION ON GENDER EQUALITY IN CROATIA¹

Abstract.....	1	III. <i>EU Enlargement and Gender Equality: Croatian Experience.....</i>	4
I. <i>Introduction.....</i>	1	IV. <i>Final Remarks: Compliance Without Commitment? A Gap Between the Letter and the Spirit.....</i>	7
II. <i>EU Enlargement and Gender Equality: Post-Communist States Experience.....</i>	2		

-Abstract-

This paper is focused on the evaluation of the impact of the process of Europeanization on gender equality in the Republic of Croatia. In this context the evolution of constitutional and institutional framework of gender equality in Croatia, from early days of its transition to democracy to today, will be presented. The main hypothesis is that the interplay of international, regional and national factors, with the leading role of the process of Europeanization, but also of strong women's organizations, resulted in relatively good gender equality framework. In the evolution of this gender equality framework, or during the last two decades, Croatia developed quite solid legal and institutional framework in the context of gender equality. This framework includes constitutionalization of gender equality, a number of specialized laws and responsible bodies, committees, offices and coordinators established at state, regional and local level, but also the head and independent institution of the Ombudsperson for Gender Equality. However, there still seems to be a lot of room for improvement, and the gap between the letter and the spirit is more than evident.

The key finding of this paper is that despite the relatively well developed constitutional and institutional framework of gender equality in Croatia, numerous challenges and gaps in the implementation process are still evident throughout many fields. The situation is particularly bad in the areas of political and economic representation, gender stereotypes and sexism, and women's sexual and reproductive rights.

Key words: Europeanization, framework, gender equality, Republic of Croatia

I. INTRODUCTION

Similar to other countries from Central and Eastern Europe, the Republic of Croatia has experienced tectonic changes after the collapse of communism, in one essential part, however, different from other countries in the region, since the transition from socialism to democracy included separation from the former Yugoslavia in wartime circumstances. While the first ten years of Croatian independence were marked by the transition from socialism to democracy in war and then post-war circumstances, it is only from 2000 onwards that progress has been recorded in the field of gender equality, and it was strongly conditioned by the influence of international, regional and EU law, but also of strong women's organizations.

The intention of this paper is not to deal with the position of women and men in Croatia during the socialist period. This position is the more or less known. The 1974 Constitution of the

* Anita Blagojević, Full Professor, Josip Juraj Strossmayer University of Osijek Faculty of Law Osijek; e-mail: ablagoje@pravos.hr

¹ This paper was made in the framework of the Jean Monnet Module "European Union and Gender Equality – EUGEquality" (2023-2026).

Socialist Republic of Croatia, similar to the other socialist constitutions, provided women and men with equal rights in their political, social and economic life,² but much of the "progress" in the area of gender equality in this period could be described as an instance of "forced emancipation."³ In spite of the fact that in socialist European countries women were relatively well represented in politics, tend to work full-time, or had access to abortion,⁴ it is well known that in this "illusion of equal treatment"⁵ between women and men some issues, such as domestic violence or sexual harassment, have never been adequately addressed and were not the part of public debates.⁶

This paper tries to answer the question what has changed in the area of gender equality since the establishment of the independent Republic of Croatia and the adoption of the 1990 Constitution, having the main focus on the evaluation of the impact of the process of Europeanization. In this context the evolution of constitutional and institutional framework of gender equality in Croatia, from early days of its transition to democracy to today, will be presented. The main hypothesis is that the interplay of international, regional and national factors, with the leading role of the process of Europeanization, but also of strong women's organizations, resulted in relatively good gender equality framework. However, the other hypothesis is that despite the relatively well developed constitutional and institutional framework of gender equality in Croatia, numerous challenges and gaps in the implementation process are still evident throughout many fields. We will try to identify some of them.

II. EU ENLARGEMENT AND GENDER EQUALITY: POST-COMMUNIST STATES EXPERIENCE

Just as the EU itself is a "*sui generis*" organization, so the EU gender equality acquis is distinctive in terms of its genesis and specific rules and procedures. From the first mention of the equality of women and men in the Treaty of Rome in 1957 (the principle of equal pay⁷) until today, the EU has developed "a major body of legislation."⁸ A special note to this development is given by the 1997 Amsterdam Treaty and the Lisbon Treaty adopted in 2009. Although the Lisbon Treaty mainly reaffirms the provisions and principles of the Amsterdam Treaty on equal pay for equal work, positive measures for the underrepresented sex, equality between women and men as a fundamental EU value and gender-aware policy,⁹ the Lisbon Treaty also brings two novelties. This Treaty establishes equality between women and men as a common value of the EU,¹⁰ and the Charter of Fundamental Rights of the EU, which in its art. 21 prohibits discrimination based on gender and sexual orientation, becomes legally binding for Member States and has the same real force as founding treaties.¹¹ Furthermore, next to the primary law, a range of existing directives (secondary law) ensure "equal rights and

² Špehar, A., This Far, but No Further?: Benefits and Limitations of EU Gender Equality Policy Making in the Western Balkans, *East European Politics & Societies*, 2012, p. 366.

³ Ibid.

⁴ Roth, S., Opportunities and Obstacles – Screening the EU Enlargement Process from a Gender Perspective, *Loyola University Chicago International Law Review*, Vol. 2, Issue 1, 2004, p. 120.

⁵ Avdeyeva, O. A., *Defending Women's Rights in Europe: Gender Equality and EU Enlargement*, State University of New York Press, 2015, p. 9.

⁶ Špehar, A., op. cit. (note 2), p. 366.

⁷ The Treaty of Rome, art. 119, *Official Journal*, C370/174

⁸ Avdeyeva, O. A., op. cit. (note 5), p. 10.

⁹ More about this, see for example: Sinko, M., Politika rodne jednakosti Europske unije: javnopolitička evolucija i feministička evaluacija, *Ljetopis socijalnog rada*, Vol. 25, No. 3, 2008.

¹⁰ The Lisbon Treaty, art. 2, *Official Journal*, C306/2007

¹¹ The Lisbon Treaty, art. 6.

opportunities in the areas of employment, vocational training, and social protection."¹² The primary and secondary law is supplemented with the rulings of the European Court of Justice (ECJ). The role of this ECJ rulings was not only to clarify the scope of EU Treaty provisions, but they were "also used as a basis for the establishment of new legislature on gender equality within or outside the sphere of employment."¹³ In addition to all the relevant Treaty provisions, legislation and case-law of the ECJ, there are also non-binding EU objectives in relation to gender equality.

In order for any non-EU states to reach EU membership, certain criteria have to be fulfilled. The Copenhagen criteria stipulates politically, legally and institutionally criteria which in the context of gender equality means the obligation for the candidate state to adopt the EU gender equality acquis and to establish relevant institutional framework for the promotion and protection of gender equality.

In order to evaluate the impact of the process of Europeanization on gender equality in post-communist states in general, it is important to take into account the influence of specific external and domestic factors that marked the very beginning of the process of transition. With regard to the external factors, Avdeyeva finds that international institutional mechanism represented the pivotal force behind the reforms of gender equality policies in post-communist states and points out that the UN Conferences on Women (with the emphasis on those held in 1985 and 1995) provided an impetus for states activity in this area.¹⁴ The ratification of the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) opened the door for the monitoring activities and variety of pressure mechanism, including the obligation to submit state reports, or publication of good and bad practices.¹⁵ On the other side, during the EU accession period post-communists states made reforms of gender equality policies. All states amended their existing labour, administrative, social security and other relevant laws, or adopted separate gender equality and/or antidiscrimination laws. They also created relevant institutional framework with relevant institutions at different levels of the government and/or relevant independent institutions. In this context, the overall picture was "remarkable".¹⁶ However, the overall picture is much less impressive when we turn to the area of the implementation. Although the legislative and institutional changes in the area of gender equality in most post-communist states can be primarily linked to the EU accession conditionality, the transformative power of the EU's gender equality acquis in these countries was actually quite limited.¹⁷ There are two groups of explanations for this unexpected consequence. One set of explanations is oriented to the negotiation process and the way of the transmission of the EU gender equality acquis in national laws. It seems that "during the early transformation period, a gender equality agenda was not among the priority policy areas in post-communist countries"¹⁸ (ie. that the primary focus was on political and economic reforms). Formalistic reforms of policies and institutions were generated with the use of "copy and paste" practice in transmission of EU directives into national laws the absence of public debates, and the fact that amended or new laws were not adapted to specific national circumstance.¹⁹

¹² Avdayeva, O. A., op. cit. (note 5), p. 11.

¹³ Werner, S., *EU Gender Equality Principles in EU Accession. A case study of the current EU candidate countries Turkey and Croatia*, University of Twente Student Thesis, p. 6, 2010, available on: <http://essay.utwente.nl/60315/> [accessed: 1 October 2023]

¹⁴ Avdeyeva, O. A., op. cit. (note 5), p. 200.

¹⁵ Ibid., p. 201.

¹⁶ Ibid.

¹⁷ Dobrotić, I., Matković, T., Zrinščak, S., Gender Equality Policies and Practicies in Croatia – The Interplay of Transition and Late Europeanization, *Social Policy & Administration*, Vol. 47, No. 2, 2013, p. 221.

¹⁸ Ibid.

¹⁹ Avdeyeva, O. A., op. cit. (note 5), p. 202.

Second set of explanations is oriented towards domestic factors, ie. set of circumstances specific for each state. National particularities that must be respected in this sense include several key factors. Political parties in power (where left-oriented parties are found to be more supportive of gender equality reforms), the socialist legacy, the level of mobilization of civil society, the strength of the women's organizations, the level of unemployment in the country, the proportion of women in national parliaments, and the role of a dominant church in policy-making, are probably the most important of them.²⁰

Although all EU member states have adopted relevant gender equality framework, there is actually "little evidence that this regime has been implemented successfully anywhere within the EU".²¹ It is not surprising, therefore, that the meaningful implementation of EU gender equality policies was a real challenge for post-communist states. Initial resistance to the harmonization of EU gender equality acquis,²² the complex nature of adoption and implementation of the EU gender equality acquis, and the existence of factors specific for each post-communist state, resulted with the more than evident gap between the "paper compliance" and the practice.²³ As Ghodsee and other observed, the mix of specific political, ideological, religious and economic factors, in disparate configurations across the post-communist states, include the lack of real political will to adopt the EU's gender equality acquis, the weakness of local civil society, corruption in judiciary, a reluctance from religious institutions to favour gender equality over traditional values, the conceptualization of the "women question" in economic terms.²⁴ The interplay of EU accession, gender equality policy and domestic politics and the emerging gap between the letter and the spirit, present an all²⁵ post-communist states that joined the EU in the fifth wave of the enlargement, is more than obvious in the Croatian case as well.

III. EU ENLARGEMENT AND GENDER EQUALITY: CROATIAN EXPERIENCE

In the sixth wave of the enlargement Croatia joined the EU in 2013 as "a front-runner among the Western Balkan States"²⁶ and late-runner among other European states (including here most other European post-communist states). During the six years of negotiations, Croatia had to harmonize the national legislation with the *acquis communautaire* in the process called screening. The acquis was divided in to 35 policy fields (chapters) and the main accession negotiations chapters in the area of gender equality were three chapters on social policy and employment (Chapter 19), on judiciary and fundamental rights (Chapter 23), and on justice, freedom and security (Chapter 24).²⁷

²⁰ See: Avdayeva, O. A., op. cit. (note 5), p. 203-205; Dobrotić, I., Matković, T., Zrinščak, S., op. cit. (note 17), p. 221-222; Avdayeva, O. A., States' Compliance with International Requirements: Gender Equality in EU Enlargement Countries, *Political Research Quarterly*, Vol. 63, No. 1, 2010., p. 203-204.

²¹ Gerber, A., The letter versus the spirit: Barriers to meaningful implementation of gender equality policies in Poland, *Women's Studies International Forum*, Vol. 33, 2010, p. 30.

²² Dobrotić, I., Matković, T., Zrinščak, S., op. cit. (note 17), p. 221.

²³ Ibid.

²⁴ Ghodsee, K., Stan, L., Weiner, E., Compliance without commitment? The EU's gender equality agenda in the Central and East European states, *Women's Studies International Forum*, Vol. 33, 1-2, 2010, p. 2.

²⁵ Ibid., p. 1.

²⁶ Goffe, J., *Gender Equality and EU enlargement – a discursive approach*, Lund Univeristy, 2017, p. 9.

²⁷ Women's Rights in the Western Balkan sin the Context of EU Integration: Institutional Mechanism for Gender Equality, Report, Assigned by Cornelissen, M., 2012, p. 8, available on: https://ravnopravnost.gov.hr/UserDocsImages/arhiva/images/pdf/Izvje%C5%A1%C4%87e_Womens%20Rights%20in%20the%20Western%20Balkans%20in%20the%20Context%20of%20EU%20Integration.pdf [accessed: 12 October 2023]

The transition experience in Croatia was quite similar to that of other post-communist states.²⁸ However, one should bear in mind that in Croatian case the transition from socialism to democracy included separation from the former Yugoslavia in wartime circumstances. The first ten years of Croatian independence were marked by a combination of specific war and post-war political, economic and social circumstances in which neither the EU nor gender equality were perceived as important public issues.²⁹ Specific domestic factors included the right-wing government (with a pro-natalist discourse and a point of view that the primary role of women is their reproductive function), the nationalism, the legacy of traditionalism, the strong role of the Catholic Church, rising unemployment, negative attitudes towards feminism and women's civil society organizations.³⁰ Nevertheless, even in such mix of circumstances some progress has been made in the area of gender equality, primarily due to the relatively well-organized women's organizations that have focused some of their activities on demands for the constitutionalization and institutionalization of gender equality.

This was also the time when some external factors, such as the UN Conference on Women held in 1995 in Beijing and the ratification of the CEDAW, provided an impetus for changes. Consequently, the first steps were taken towards the establishment of (first) institutional mechanism for gender equality. In 1996, the Committee for Equality Issues, as the Government's advisory body, was established, and it prepared the first National Policy for the Promotion of Equality for the period 1997-2000.³¹ On the other side, the ratification of the CEDAW³² opened the door for the monitoring activities in the area of discrimination of women.³³

The very beginning of 2000 was marked by changes which brought opportunities for a gender equality agenda. A first change of government after 1990 brought a left-oriented coalition to power, with the EU membership as a primary political goal, which opened a "window of opportunity for women's organizations"³⁴ and their cooperation with the government and involvement in the preparation of gender equality documents.

As a consequence, the intensive development of legal and institutional framework of gender equality started with the Change of the Constitution in 2000. The 1990 "Christmas Constitution"³⁵ includes the principles of equality and non-discrimination and it is founded on certain number of the fundamental values of the constitutional order. The list of the highest values from the Art. 3. of the Constitution, which are the basis for the interpretation of the Constitution. has been expanded with the value of "gender equality" with the Change of Constitution in 2000. Here we have to emphasize that the Constitutional terminology, as well as the terminology of most other acts and regulation, refers to "sex" (*spol*), not gender. However, there is no legislative definition of either concept and the majority of the translations

²⁸ Dobrotić, I, Matković, T., Zrinščak, S., op. cit. (note 17), p. 223.

²⁹ Ibid., p. 224.

³⁰ Ibid.

³¹ However, finding any information about the content of the respective Policy seems to be mission impossible. There are opinions that the Policy was just a shopping list, without operationalization, deadlines, or implementation plans. See: Kesić, V., *Feminizam i država*, CESI, 2007, p. 16.; Blagojević, A., Gender Equality in the Republic of Croatia: Two Steps Forwards, One Step Back, in: *The Rights of Women in Comparative Constitutional Law*, Spigmo, I., Scotti, V. R., Da Silva, J. L. P. (eds.), Routledge, London and New York, 2023, p. 21.

³² Croatia became a party to the 1979 CEDAW by the notification of succession of 8 October 1991 and ten years later (24 January 2001) ratified the Optional Protocol to the CEDAW

³³ The principal areas of concern present in all the Croatian reports of the CEDAW Committee are violence against women, participation in political and public life, education, violations of women's reproductive rights. See: Blagojević, A., op. cit. (note 31), p. 22.

³⁴ Dobrotić, I, Matković, T., Zrinščak, S., op. cit. (note 17), p. 225.

³⁵ The Constitution of the Republic of Croatia, Official Gazette (*Narodne novine*), 56/1990.

into English refer to ‘gender’.³⁶ In addition, the Constitutional Court of the Republic of Croatia explicitly stated that sex and gender diversity are protected by the Constitution.³⁷ Of course, the question arises as to why gender equality was not included in the list of fundamental values in the 1990 Constitution, that is, why was it only included ten years later? The dominant argument of the constitution-makers (for example, of Smerdel), was that gender equality was implicitly included in the constitutional principles of equality before law and that the later development proved that this was not the case, and that additional guarantees were needed.³⁸

In this period, the (first) Gender Equality Act³⁹ was adopted (2003) and a more comprehensive institutional framework was created - the Parliamentary Committee for Gender Equality (2000), the Ombudsperson for Gender Equality (2003) and the Governmental Office for Gender Equality (2004). At the vertical level, the relevant institutional framework also includes the gender equality coordinators in state administrative bodies and county offices and gender equality commissions at local and regional level. However, after these legislative and institutional changes and after the return to power of a right-wing coalition in 2004, the gender equality agenda went through the period of silence until 2007 and the gender issue were mainly absent from the public agenda.⁴⁰

It is only since 2008 that substantive changes in gender equality policy have been introduced, primarily because the EU negotiations process entered its final phase.⁴¹ Following the Constitutional Court’s decision⁴² to repeal the 2003 Gender Equality Act due to its formal unconstitutionality,⁴³ the new and fully harmonized Gender Equality Act⁴⁴ was adopted in 2008, as well as Anti-discrimination Act.⁴⁵ With regard to the adoption of the Anti-discrimination Act, Dobronić and others emphasize that it received some public attention and even resistance from the Catholic Church, but the argument was that the law must be passed in order to ‘buy’ EU membership.⁴⁶ In addition, the respective Act was supported from a large part of the civil society.⁴⁷ Furthermore, in order to harmonize with the EU acquis, the legislation on gender equality has been upgraded with the relevant acts in the field of violence against women and domestic violence.⁴⁸ The Act on Protection against Domestic Violence,⁴⁹ harmonized with the relevant EU acquis, entered into force on 1 January 2018, replacing the previous Act from 2009. In addition, as a result of the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence⁵⁰

³⁶ Blagojević, A., op. cit. (note 31), p. 21.

³⁷ The Constitutional Court of the Republic of Croatia, Communication on the Citizen's Initiative Referendum on the Definition of Marriage, SuS-1/2013 of 14 November 2013, Official Gazette (*Narodne novine*), 138/2013.

³⁸ Smerdel, B., *Ustavno uređenje europske Hrvatske*, Narodne novine, Zagreb, 2013, p. 292.

³⁹ Gender Equality Act, Official Gazette (*Narodne novine*), 116/2003.

⁴⁰ Dobrotić, I, Matković, T., Zrinščak, S., op. cit. (note 17), p. 226.

⁴¹ Ibid.

⁴² The Constitutional Court of the Republic of Croatia, Decision U-I-2696/2003 from 16 January 2008, Official Gazette (*Narodne novine*), 14/2008.

⁴³ The 2003 Act was not adopted with the required majority in the Parliament (majority vote of all MPs), or with the majority that is needed for organic laws.

⁴⁴ Gender Equality Act, Official Gazette (*Narodne novine*), 82/08, 69/17.

⁴⁵ Anti-discrimination Act, Official Gazette (*Narodne novine*), 85/08, 112/12.

⁴⁶ Dobrotić, I, Matković, T., Zrinščak, S., op. cit. (note 17), p. 226.

⁴⁷ Ibid.

⁴⁸ See: Blagojević, A., op. cit. (note 31), p. 24.

⁴⁹ Act on Protection against Domestic Violence, Official Gazette (*Narodne novine*), 70/2017, 126/2019, 84/2021, 114/2022.

⁵⁰ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Official Gazette (*Narodne novine*), 3/2018.

(so-called the Istanbul Convention) in 2018, five years after the signing,⁵¹ in 2019 the Criminal Code and the Act on Protection against Domestic Violence were amended.

Having all this in mind, we may conclude that over the years, or during the last two decades, Croatia developed quite solid legal and institutional framework in the context of gender equality. This framework includes constitutionalization of gender equality, a number of specialized laws and responsible bodies, committees, offices and coordinators established at state, regional and local level, but also the head and independent institution of the Ombudsperson for Gender Equality. However, there still seems to be a lot of room for improvement, and the gap between the letter and the spirit is more than evident.

IV. FINAL REMARKS: COMPLIANCE WITHOUT COMMITMENT? A GAP BETWEEN THE LETTER AND THE SPIRIT

The European Union Gender Equality Strategy 2020-2025 states that the EU is a global leader in gender equality: 14 of the top 20 countries worldwide on gender equality are EU Member States. At the same time, no Member States has achieved full gender equality and progress is slow.⁵² According to the EU Gender Equality Index 2023, measured by the European Institute for Gender Equality (EIGE), Member States on average scored 70.2 out of 100 points, a score that has improved by just 7.1 points since 2010.⁵³ With 60.7 out of 100 points, Croatia ranks 20th in the EU on the Gender Equality Index and its score is 9.5 points below the score for the EU as a whole. The best performance has been in the domain of health (84.8 points) and money (73.6 points), while the most room for improvement remains in the domain of power (49.5 points) and time (48.6 points).⁵⁴ Devasting results on woman's participation in political life have also been recorded, and situation is also extremely bad in the area of economic life – the fact that only 31 per cent of women participate in the management structures of the largest companies in Croatia is a true indicator of the real position of women in Croatia.⁵⁵

These are also some of the problematic areas that Ombudsperson for Gender Equality has been pointing out for years in her annual reports and media appearances. Statistics show that for a long time the largest number of complaints on the grounds of discrimination have related to sex discrimination (80,8%), the majority of which are violations of women's rights in various areas of discrimination, but most, for many years, in the field of administration, social security and social welfare, pension and health insurance, and the exercise of labour rights.⁵⁶ There are number of concrete indicators of the unequal position of women listed in 2023 Annual Report,

⁵¹ Croatia signed, but did not ratify, the Istanbul Convention in January 2013 during the tenure of a centre-left government. The main "reason" given for delaying the ratification was a financial one. After the Members of the European Parliament called for all EU Members State to ratify the Convention, the new centre-right government made some effort to ratify the Convention. However, in order to reduce tensions in society in the context of the "introduction of the gender ideology agenda" (public protest against the Istanbul Convention, organized by the Catholic and conservative groups and associations, unsuccessful collection of the signatures for the referendum of the citizens' initiative to repeal the Convention), the ratification was accompanied by an interpretative statement. It states that the Istanbul Convention is compatible with the Croatian Constitution, that its aim is to protect women from the violence and that its provisions do not include the obligation to introduce a gender ideology into the Croatian legal and educational system, or to change the constitutional definition of marriage.

⁵² Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions: A Union of Equality: Gender Equality Strategy 2020-2025, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

⁵³ European Institute for Gender Equality (EIGE), Gender Equality Index 2023 – European Union, available at: <https://eige.europa.eu/gender-equality-index/2023/country/HR>

⁵⁴ Ibid.

⁵⁵ See: <https://eige.europa.eu/gender-equality-index/2023/domain/power/HR>

⁵⁶ The Ombudsperson for Gender Equality, Annual Report 2023, available at: https://www.prs.hr/application/uploads/Izvje%C5%A1%C4%87e_o_radu_Pravobraniteljic.pdf

and we will only list some of them: women still make the majority of the unemployed (57,7%); they are underrepresented in management positions; they do not have equal opportunities for advancement; they have lower salaries and pensions; men in Croatia use maternity and parental benefits the least in the EU; there are more and more reported cases of sexual harassment of women; there are an increasing number of misdemeanour and criminal offences of domestic violence; women are deprived of an adequate level of protection of their reproductive rights, and are underrepresented at all levels of political participation.⁵⁷

With regard to the sexual and reproductive rights, we must outline that one of the most highly debated issues in Croatia is the topic of abortion. Conservative groups supported by the Catholic groups and right-wing politicians regularly organize events against abortion, including “prayer circles” in front of the hospitals in which abortions are performed. Croatia has a liberal Abortion Law since 1978,⁵⁸ and this Law is still in force.⁵⁹ In 2017, twenty-six years (!) after the first proposal was submitted to initiate the procedure for assessing the compliance of the 1978 Law with the Constitution, the Constitutional Court of the Republic of Croatia issued its Ruling⁶⁰ and constitutionalized the periodic model of abortion.⁶¹ However, despite the constitutionalization of the periodic model of pregnancy, women in Croatia still face many difficulties in accessing abortion services in practice. According to the research done by the Croatian Ombudsperson for Gender Equality in 2014, more than half of the gynaecologists do not provide abortion services on the grounds of personal conscience.⁶² Furthermore, some of the gynaecologists who have refused to provide abortion services as a part of their public employment on this ground, offer this service in their private practice for a fee. One of the problems is the presence of the institutional refusal of care, which is not allowed by law. Nevertheless, as many as six out of 30 hospitals refuse to provide legal abortion for reasons of institutional policy, and this situation has a particularly negatively effect on women from economically deprived areas and poor women for whom the travelling expenses to a hospital offering abortion service may be prohibitive. This problem is also highlighted in the Joint submission by the Center for Reproductive Rights, the Center for Education, Counseling and Research and Parents in Action to the Committee on the Elimination of Discrimination against Women in July 2015.⁶³ This submission also highlighted the problem of unaffordability of abortion for many women since the abortion is not covered by the Health Insurance Fund. The cost of the procedure is not uniform and varies between 115 and 530 euros. Following the above submission, the UN Committee on the Elimination of Discrimination against Women

⁵⁷ Ibid.

⁵⁸ Act on Health Measures on the Exercise of the Right to the Freedom of Decision-making on Giving Birth, Official Gazette (*Narodne novine*), 18/1978, 31/1986, 47/1989 and 88/2001.

⁵⁹ According to this Law, termination of pregnancy may be performed at the request of a woman within ten weeks of the start of pregnancy. After that period, the termination of pregnancy is performed only if a special medical commission issues its consent and only if medical indications show that woman's health is jeopardized, the baby will suffer from severe disability or the pregnancy is the result of a criminal offence.

⁶⁰ Constitutional Court of the Republic of Croatia, Ruling No. U-I-60/1991 et al. From 21 February 2017 and dissenting opinions, Official Gazette (*Narodne novine*), 25/2017.

⁶¹ Kostadinov, B., Konstitucionalizacija periodnog modela prekida trudnoće u Republici Hrvatskoj, in: *Informator*, 6461, 2017, p. 1.

⁶² The Ombudsperson for Gender Equality, Research: The praxis of the healthcare institutions in Croatia with regard to the availability of legally induced abortion (*Praksa zdravstvenih ustanova u Hrvatskoj po pitanju osiguranja dostupnosti legalno induciranog pobačaja*), 2014, available at: https://arhiva.prs.hr/attachments/article/1555/05_ISTRA%C5%BDIVANJE%20-%20Praksa%20zdravstvenih%20ustanova%20u%20RH.pdf

⁶³ Joint submission by the Center for Reproductive Rights, Center for Education, Counselling and Research and Parents in Action to the Committee on the Elimination of Discrimination against Women's 61st session, Periodic review of Croatia (2015), available at: <https://reproductiverights.org/sites/default/files/documents/Joint%20CEDAW%20submission%20Croatia%20June%202015.pdf>

called upon the Croatian Government to ensure women can access legal abortion, regardless of health professionals' personal objections.⁶⁴

For years, or decades, one of the most problematic areas related to women's rights in Croatia is the violence against women. When elaborating on the reasons for the ratification of the Istanbul Convention, Croatian Prime Minister Andrej Plenković cited the statistics from the Ministry of Interior, which says that from 2013 to 2017, 195 people were killed in Croatia, including 91 women. Of these, 63 were killed by persons close to them, including 46 who were their partners. However, one cannot see an improvement in the prosecution of violence against women. The reports of Human Rights House Zagreb, a coalition of several human rights organizations,⁶⁵ for 2018 and 2019 stated that violence against women remains one of the most problematic areas related to women's rights in Croatia. Because of the ratification of the Istanbul Convention, in 2019 the Criminal Code and the Act on the Protection against Domestic Violence were amended, and a new Protocol on Procedure in Case of Domestic Violence was adopted. However, non-recognition of partners as victims of domestic violence, the uneven and incomplete application of the Protocol, the failure to ensure physical separation of victims and perpetrators when giving statements to the police and the general problem of lack of sensibility and qualification of judicial, police and other professionals working with victims of violence are just some of the current problems.⁶⁶ In 2020, there was an increase in violence due to the pandemic and lockdown. The Ombudsperson for Gender Equality reported that the number of domestic violence offences in the first half of 2020 was more than more than 40 per cent higher than in the same period in 2019.⁶⁷ The problem is detected by the GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence, responsible for monitoring the implementation of the Istanbul Convention) as well. In its Evaluation Report for Croatia, GREVIO sends a message that the Republic of Croatia lacks, *inter alia*, development and consistent application of gender-sensitive comprehensive policies to combat gender-based violence, systematic prevention, and education of experts at all levels.⁶⁸

The underrepresentation of women in political and public life is generally conditioned by a number of obstacles, including the electoral system, the way political parties function and reason, and gender stereotypes. The problem of gender stereotypes and sexism is also present in Croatian media, the most common examples being advertising based on gender stereotypes, the evaluation of women in politics being based on their physical appearance and the way they dress and sensationalist reporting of gender-based violence.⁶⁹

⁶⁴ Committee on the Elimination of Discrimination against Women (2015) Concluding observations on the combined fourth and fifth periodic reports of Croatia, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fCO%2f4-5&Lang=en

⁶⁵ The Human Rights House Zagreb is a human rights organization established in 2008 as a network of civil society organizations with the goal of promoting and protecting human rights. It consists of eight civil society organizations, including B.a.B.e. (Be active. Be emancipated.), Centre for Peace Studies, The Association for Promotion of Equal Opportunities. More about the Human Rights House: <https://www.kucaljudskihprava.hr/en/about-us/>

⁶⁶ Human Rights House Zagreb (2018), *Human Rights in Croatia – Overview of 2018*, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP_GI_eng_web1.pdf Human Rights House Zagreb (2019), *Human Rights in Croatia – Overview of 2019*, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2020/04/KLJP_godisnjelzvjescce2019_ENG_web.pdf

⁶⁷ The Ombudsperson for Gender Equality, *Annual Report 2020*, available at: https://www.prs.hr/application/uploads/IZVJESCE_O_RADU_2020_Pravobranit.pdf

⁶⁸ See: GREVIO Baseline Evaluation Report Croatia, 26 May 2023, available at: <https://rm.coe.int/baseline-evaluation-report-on-croatia/1680ac76c9>

⁶⁹ Gender Equality Policies in Croatia – Update, Study for the FEMM Committee, Bodiroga-Vukobrat, N., Martinović, A., 2017, p. 33. available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596803/IPOL_STU\(2017\)596803_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596803/IPOL_STU(2017)596803_EN.pdf)

According to the report of the Croatian Bureau of Statistics: *Women and Men in Croatia, 2022*, 34 members of the Croatian Parliament were elected in the 2020 parliamentary elections, of which 22.5 per cent are women. Four out of 18 ministers in the Government of the Republic of Croatia are women (25 per cent). The worst situation has been recorded at the lowest levels of government. In the 2021 local elections 243 women were elected to county assemblies (out of 803 seats), or 30.3 per cent, 700 women were elected to city councils (out of 1538 seats), or 31.3 per cent, while 1767 women were elected to municipal councils (out of 4215 seats), or 29.5 per cent. As for the leaders of the executive branch, in the local elections in 2021 only two women were elected as the head of the county (out of 21 county prefects), and somewhat better, although still devastating, are the data on elected city mayors (17 mayors) (13.4 per cent) and 44 municipal mayors (10.3 per cent).⁷⁰ A slightly better representation of women in local and regional representative and executive bodies compared to the 2017 elections is an indicator of the weakness of the electoral system, but also the way political parties function, i.e. the way electoral lists are created, which makes it impossible for the underrepresented gender to enter the political arena. It should also be noted that in the 2021 local elections, the provisions for a balanced representation of women and men were not respected in 14 per cent of candidate lists, but sanctions in these cases were generally absent or inappropriately low.

The underrepresentation of women is also present in other spheres of political power. There are (only) three women among 13 Constitutional Court justices (23.1 per cent). Since 1990, the Constitutional Court has had only one female president (Jasna Omejec, 2008–2016).

With regard to the judiciary, it is important to note that most female judges are on the lowest scales of the judiciary – 74.9 per cent of them are in municipal courts. However, when moving towards the top of the judicial pyramid, their percentage decreases, and at county court level there are 65.1 per cent of female justices. However, only 32.4 per cent of justices at the Supreme Court are female.⁷¹ There has not been a female president of the Supreme Court since 1990. Although women make up the huge majority in the judiciary there are currently only three women in the body that decides on the appointment and promotion of judges (three out of 11 members). The percentage of women in states' attorney offices is 70.8 per cent, and since 2020 Croatia has had a (first) woman at the head of the State's Attorney Office. Women are also underrepresented in other positions of political power. In 2021, 27.8 per cent of functionaries and government and public officers were women, and 31.7 per cent of ambassadors.⁷²

Overall, the indicators are that we are still a long way from real equality between women and men in Croatia. We may conclude that the interplay of EU accession, gender equality policy and domestic politics and the emerging gap between the letter and the spirit, present in all post-communist states that joined the EU in the fifth wave of the enlargement, is more than obvious in the Croatian case as well. The key finding of this paper is that despite the relatively well developed constitutional and institutional framework of gender equality in Croatia, numerous challenges and gaps in the implementation process are still evident throughout many fields. The situation is particularly bad in the areas of political and economic representation, gender stereotypes and sexism, and women's sexual and reproductive rights. Once again it has been proven that quality or relatively-high quality of legislation is one side of the coin, while, the other side, which is equally important, is the implementation of that legislation. The implementation of laws and policies related to gender equality is simply a *conditio sine qua non* of improving the position of women and achieving real gender equality, and it has to go hand in hand with adequate human and financial resources. Mobilization of all stakeholders

⁷⁰Croatian Bureau of Statistics, *Women and Men in Croatia, 2022*, available at: https://podaci.dzs.hr/media/04pff1do/women_and_man_2022.pdf

⁷¹Ibid.

⁷²Ibid.

and better coordination between them are needed in order to ensure that the existing gaps are properly addressed and solved, and that the solid legislative and institutional standards are not just symbolic standards.

Bibliography

1. Avdeyeva, O. A., *Defending Women's Rights in Europe: Gender Equality and EU Enlargement*, State University of New York Press, 2015.
2. Avdayeva, O. A., States' Compliance with International Requirements: Gender Equality in EU Enlargement Countries, *Political Research Quarterly*, Vol. 63, No. 1, 2010.
3. Blagojević, A., Gender Equality in the Republic of Croatia: Two Steps Forwards, One Step Back, in: *The Rights of Women in Comparative Constitutional Law*, Spigmo, I., Scotti, V. R., Da Silva, J. L. P. (eds.), Routledge, London and New York, 2023.
4. Dobrotić, I., Matković, T., Zrinščak, S., Gender Equality Policies and Practices in Croatia – The Interplay of Transition and Late Europeanization, *Social Policy & Administration*, Vol. 47, No. 2, 2013.
5. Gender Equality Policies in Croatia – Update, Study for the FEMM Committee, Bodiroga-Vukobrat, N., Martinović, A., 2017, p. 33. available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596803/IPOL_STU\(2017\)596803_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596803/IPOL_STU(2017)596803_EN.pdf)
6. Gerber, A., The letter versus the spirit: Barriers to meaningful implementation of gender equality policies in Poland, *Women's Studies International Forum*, Vol. 33, 2010.
7. Ghodsee, K., Stan, L., Weiner, E., Compliance without commitment? The EU's gender equality agenda in the Central and East European states, *Women's Studies International Forum*, Vol. 33, 1-2, 2010.
8. Goffe, J., *Gender Equality and EU enlargement – a discursive approach*, Lund Univeristy, 2017.
9. Kesić, V., *Feminizam i država*, CESI, Zagreb, 2007.
10. Kostadinov, B., Konstitucionalizacija periodnog modela prekida trudnoće u Republici Hrvatskoj, in: *Informator*, 6461, 2017.
11. Roth, S., Opportunities and Obstacles – Screening the EU Enlargement Process from a Gender Perspective, *Loyola University Chicago International Law Review*, Vol. 2, Issue 1, 2004.
12. Smerdel, B., *Ustavno uređenje europske Hrvatske*, Narodne novine, Zagreb, 2013.
13. Šinko, M., Politika rodne jednakosti Europske unije: javnopolitička evolucija i feministička evaluacija, *Ljetopis socijalnog rada*, Vol. 25, No. 3, 2008.
14. Špehar, A., This Far, but No Further?: Benefits and Limitations of EU Gender Equality Policy Making in the Western Balkans, *East European Politics & Societies*, 2012.
15. Werner, S., *EU Gender Equality Principles in EU Accession. A case study of the current EU candidate countries Turkey and Croatia*, University of Twente Student Thesis, p. 6, 2010, available on: <http://essay.utwente.nl/60315/>
16. Women's Rights in the Western Balkan sin the Context of EU Integration: Institutional Mechanism for Gender Equality, Report, Assigned by Cornelissen, M., available at: https://ravnopravnost.gov.hr/UserDocsImages/arhiva/images/pdf/Izvje%C5%A1%C4%87e_Womens%20Rights%20in%20the%20Western%20Balkans%20in%20the%20Context%20of%20EU%20Integration.pdf
17. The Treaty of Rome, *Official Journal*, C370/174
18. The Lisbon Treaty, *Official Journal*, C306/2007
19. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, *Official Gazette (Narodne novine)*, 3/2018.
20. The Constitution of the Republic of Croatia, *Official Gazette (Narodne novine)*, 56/1990.

21. The Constitution of the Republic of Croatia, Official Gazette (*Narodne novine*), 85/2010.
22. Gender Equality Act, Official Gazette (*Narodne novine*), 116/2003.
23. Gender Equality Act, Official Gazette (*Narodne novine*), 82/08, 69/17.
24. Anti-discrimination Act, Official Gazette (*Narodne novine*), 85/08, 112/12.
25. Act on Protection against Domestic Violence, Official Gazette (*Narodne novine*), 70/2017, 126/2019, 84/2021, 114/2022.
26. Act on Health Measures on the Exercise of the Right to the Freedom of Decision-making on Giving Birth, Official Gazette (*Narodne novine*), 18/1978, 31/1986, 47/1989 and 88/2001.
27. The Constitutional Court of the Republic of Croatia, Communication on the Citizen's Initiative Referendum on the Definition of Marriage, SuS-1/2013 of 14 November 2013, Official Gazette (*Narodne novine*), 138/2013.
28. The Constitutional Court of the Republic of Croatia, Decision U-I-2696/2003 from 16 January 2008, Official Gazette (*Narodne novine*), 14/2008.
29. Constitutional Court of the Republic of Croatia, Ruling No. U-I-60/1991 et al. From 21 February 2017 and dissenting opinions, Official Gazette (*Narodne novine*), 25/2017.
30. Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions: A Union of Equality: Gender Equality Strategy 2020-2025, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>
31. European Institute for Gender Equality (EIGE), Gender Equality Index 2023 – European Union, available at: <https://eige.europa.eu/gender-equality-index/2023/country/HR>
32. Committee on the Elimination of Discrimination against Women (2015) Concluding observations on the combined fourth and fifth periodic reports of Croatia, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fHRV%2fCO%2f4-5&Lang=en
33. The Ombudsperson for Gender Equality, Annual Report 2023, available at: https://www.prs.hr/application/uploads/Izvje%C5%A1%C4%87e_o_radu_Pravobraniteljic.pdf
34. The Ombudsperson for Gender Equality, *Annual Report 2020*, available at: https://www.prs.hr/application/uploads/IZVJESCE_O_RADU_2020_Pravobranit.pdf
35. ¹ See: GREVIO Baseline Evaluation Report Croatia, 26 May 2023, available at: <https://rm.coe.int/baseline-evaluation-report-on-croatia/1680ac76c9>
36. The Ombudsperson for Gender Equality, Research: The praxis of the healthcare institutions in Croatia with regard to the availability of legally induced abortion (*Praksa zdravstvenih ustanova u Hrvatskoj po pitanju osiguranja dostupnosti legalno induciranog pobačaja*), 2014, available at: https://arhiva.prs.hr/attachments/article/1555/05_ISTRA%C5%BDIVANJE%20-%20Praksa%20zdravstvenih%20ustanova%20u%20RH.pdf
37. Joint submission by the Center for Reproductive Rights, Center for Education, Counselling and Research and Parents in Action to the Committee on the Elimination of Discrimination against Women's 61st session, Periodic review of Croatia (2015), available at: <https://reproductiverights.org/sites/default/files/documents/Joint%20CEDAW%20submission%20Croatia%20June%202015.pdf>
38. Human Rights House Zagreb (2018), *Human Rights in Croatia – Overview of 2018*, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP_GI_eng_web1.pdf
39. Human Rights House Zagreb (2019), *Human Rights in Croatia – Overview of 2019*, available at: https://www.kucaljudskihprava.hr/wp-content/uploads/2020/04/KLJP_godisnjeIzvjesce2019_ENG_web.pdf
40. GREVIO Baseline Evaluation Report Croatia, 26 May 2023, available at: <https://rm.coe.int/baseline-evaluation-report-on-croatia/1680ac76c9>