

# IMPROVING THE LEGAL FRAMEWORK FOR MORE EFFECTIVE PROSECUTION OF SEXUAL VIOLENCE AS A FORM OF WAR CRIMES

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# INSTEAD OF INTRODUCTION

The wars on the territory of the former Socialist Federal Republic of Yugoslavia (SFRY) were marked, inter alia, by sexual violence to which primarily women and men, and in some cases children, were subjected. Before the International Criminal Tribunal for the former Yugoslavia (ICTY), the exact number of persons convicted for the war crime of sexual violence was never clearly finalised. According to certain analyses, of the 161 individuals indicted, 78 were convicted of crimes, including war crimes of sexual violence. At the international level, awareness continues to grow regarding the scale of sexual violence committed during armed conflict, the gravity of its consequences, and the necessity of its prosecution.

The Youth Initiative for Human Rights, along with other organizations working in this field, holds the view that cases of conflict-related sexual violence in Croatia are insufficiently prosecuted. According to information provided by the State Attorney's Office (DORH) in 2014, the Ministry of the Interior (MUP) established that there was suspicion that war crimes of rape or other forms of sexual violence may have been committed against 187 persons during the 1990s conflict, and at the time of the DORH report it had been established with certainty that the war crime of rape had been committed in relation to 83 persons. There is no doubt that the competent prosecutorial authorities continue to regard this issue as relevant. On 26 April 2023, representatives of the State Attorney's Office hosted a study visit by Ukrainian judges, aimed at exchanging experiences in the prosecution of perpetrators of sexual violence committed during the war.<sup>1</sup>

Obstacles to the prosecution of these crimes do not stem solely from the Croatian legal system. They are partly the result of the fact that perpetrators are often not identified or are unavailable to the Croatian judiciary, as well as the circumstance that victims, due to shame, stigma, or fear of social condemnation, rarely decide to speak publicly about the trauma they endured. Nevertheless, we consider that the Republic of Croatia has not undertaken all available measures to ensure victims effective access to justice.

Following the amendments to the Justice System Development Strategy in 2013, the institutional focus on victims of war-related sexual violence was further reduced, although facilitating their access to justice should represent one of the priority objectives.

An additional problem lies in the misalignment of national legislation and judicial practice with international standards, particularly regarding the definition of war-related sexual violence and the recognition of all its forms. In certain cases, such misalignment has led to incorrect legal qualification of offences and a diminution of their gravity.<sup>2</sup>

Prosecution has been further hindered by insufficient protection and support for victims during criminal proceedings, which has often resulted in their withdrawal from testifying due to fear of retraumatisation. Moreover, concern arises from the lack of sensitivity on the part of certain judicial authorities, which in some cases ignored or relativised testimonies concerning war-related sexual violence. Finally, limited access to reparations and significant procedural barriers to obtaining compensation have further discouraged victims from seeking legal protection. All of the above has resulted in crimes of war-related sexual violence remaining insufficiently investigated, rarely prosecuted, and inadequately sanctioned in proportion to their actual prevalence and gravity.

**With the aim of restoring attention to this issue, the Youth Initiative for Human Rights prepared the following report on the basis of conducted consultations and interviews with professionals working with victims of conflict-related sexual violence, guided by the following question:**

**Is there a need to improve the legal framework within Croatian national legislation in order to enable more effective prosecution of sexual violence as a form of war crime, particularly through procedural rules governing the rights of victims of sexual violence?**

**The traumatic experiences of victims of wartime sexual violence, the long-standing lack of support from state institutions, and contemporary international legal approaches to criminal prosecution served as the starting point for this report's main aim: public advocacy for the necessary amendments to national legislation.**

# CONTEXT

In mid-April 2019, the United Nations Security Council adopted Resolution 2467, which emphasizes the need for a survivor-centred approach to addressing sexual violence and affirms the necessity of conducting consistent and rigorous investigations and criminal prosecutions of perpetrators of sexual violence in armed conflict, while expressing concern over the slow progress in this field.

In earlier resolutions – 2106 (2013), 1820 (2008), 1888 (2009), and 1960 (2010) – the Security Council established that sexual violence, when committed systematically and used as a method of warfare, constitutes a fundamental threat to international peace and security and therefore requires an adequate response. At the Global Summit to End Sexual Violence in Conflict, held in London in 2014, the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict<sup>3</sup> was presented. The UN Guidelines on Reparations of August 2023 call upon states and judicial mechanisms to ensure prompt and reasonable evidentiary standards and comprehensive compensation for victims of conflict-related sexual violence. For example, UN agencies and civil society organizations now recommend that reparation programmes should not require victims to file criminal complaints as a precondition for access to reparations.

In proceedings before the ICTY, special rules were adopted regarding the evidentiary treatment of sexual violence. Victims are protected from abusive and aggressive questioning and may testify under a pseudonym, with their face concealed and voice altered, via video link, and in hearings closed to the public.

Furthermore, Rule 96 of the ICTY Rules of Procedure and Evidence provides that corroboration of a victim's testimony is not required; that evidence relating to a victim's prior sexual conduct shall not be admitted in order to protect the victim "from harassment, humiliation and degradation"; and that lack of consent may be established by demonstrating the existence of coercive circumstances under which genuine consent is not possible. These procedural safeguards and evidentiary rules may be regarded as best practice and should be adopted by the Croatian judicial system.

In November 2016, the European Commission published its report (Special Eurobarometer 449 – Gender-Based Violence), according to which a significant number of respondents in Croatia justified rape or sexual violence on the basis of the victim's behaviour or personal characteristics.<sup>4</sup> The alarming findings of this report clearly point to the social stigmatization of victims of sexual violence, which often leads victims themselves to deny that they have been sexually abused and to refrain from reporting such crimes. According to the Eurobarometer Flash Survey from February 2024, 14% of respondents in Croatia agreed to some extent with the statement that women often fabricate or exaggerate claims of abuse or rape.<sup>5</sup> In the European context, Croatia is among the countries with the lowest prevalence of such attitudes; nevertheless, the fact that today approximately one in six persons in Croatia holds such views demonstrates that a significant level of stigmatization of victims of sexual violence persists within society. Such attitudes spill over to judges and the creators of normative regulations, in which social stigma is reflected instead of comprehensive protection. At the same time and as a consequence, victims of sexual violence (in war) have still not received adequate protection during criminal proceedings, psychological support, or proper legal assistance, which is another reason why even today we do not have complete data on the scale of rape and sexual violence during the war.

To date, there are no precise data on the number of survivors of wartime sexual violence in Croatia. However, the need to regulate this matter arises from the large number of persons, particularly those detained in prisons and camps<sup>6</sup>, who are believed to have experienced some form of sexual violence during the war. According to available data, from the beginning of the implementation of the Act on the Rights of Victims of Sexual Violence Committed during the Armed Aggression against the Republic of Croatia in the Homeland War (National Gazette nb. 64/15) until November 2022, the Ministry of Croatian Veterans received 296 applications for recognition of status and the exercise of rights under the Act, of which 289 were resolved. Of these, 204 applications were granted, 76 were rejected, proceedings were discontinued in eight cases, and one application was dismissed. Pursuant to Article 25 of the Act, a total of 20 persons were granted the right to increased monetary compensation.<sup>7</sup>

According to the information provided by the Ministry of Croatian Veterans of the Republic of Croatia through the mechanism of requests for access to information, an additional 22 requests were received by 17 December 2025, bringing the total number of requests to 318. Additional checks established that some of the potential victims had meanwhile passed away, some had stated to state prosecutors that no rape or other form of sexual violence had been committed against them that could be subsumed under any of the elements of the criminal offence of a war crime committed through inhuman treatment, and some of the potential victims ruled out any possibility of giving testimony. According to a communication from the State Attorney's Office of the Republic of Croatia in response to a request for the right of access to information, a conviction has been rendered in relation to 33 victims in criminal offences of rape as a war crime, while proceedings are currently ongoing in relation to 46 victims.

**As a civil society organisation that, since its establishment, has focused on the protection of human rights, particularly in the context of the wars of the 1990s, the Youth Initiative for Human Rights considers that further humanisation of criminal proceedings, including the introduction of special rules for the testimony of victims of war-related sexual violence, would significantly contribute to more effective and adequate prosecution of war crimes.**

## **NATIONAL STRATEGY FOR THE DEVELOPMENT OF THE SYSTEM SUPPORTING THE VICTIMS AND WITNESSES IN REPUBLIC OF CROATIA FROM 2016 UNTIL 2020**

(National Gazette, nb. 75/2015)

The contemporary international legal approach to the criminal prosecution of perpetrators has evolved from a model that primarily reflects the State's concern for maintaining public legal order toward a mechanism aimed at restoring the violated rights of the injured individual. Over the past several decades, the development of victims' rights has been accompanied by a growing awareness of the need for more robust victim protection. The victim is no longer regarded merely as a source of information within criminal proceedings, but increasingly as a procedural subject endowed with more substantial and clearly articulated rights.<sup>8</sup>

Among the more recent documents concerning a systematic approach to supporting victims of sexual violence, we highlight the National Action Plan for the Implementation of United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security, and related resolutions, for the period from 2019 to 2023. This document, inter alia, emphasizes the implementation of a programme of inpatient medical rehabilitation for victims of sexual violence from the Homeland War, implemented by the Ministry of Croatian Veterans. In 2022, a total of 54 women were referred to inpatient medical rehabilitation, including 51 female Croatian veterans of the Homeland War and three victims of sexual violence.

# 1. EXISTING NATIONAL LEGAL FRAMEWORK OF PROCESSING WARTIME SEXUAL VIOLENCE

In the Republic of Croatia, sexual violence committed during the war is prosecuted as a war crime pursuant to the Basic Criminal Law of Republic of Croatia (hereinafter BCLRC) from 1993 (revised text NN nb. 31/93). However, due to substantive changes in the definition of war crimes introduced by the Criminal Code (National Gazette nbs. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22, 114/23, 36/24, 136/25; hereinafter: CC) from 2011 onwards, the new Criminal Code is applied to sexual violence committed as a form of war crime, as the law more lenient to the perpetrator (Article 3(2) CC).

**Sexual violence was prosecuted under Article 120 of the BCLRC as a war crime against the civilian population:**

## Article 120

*(1) Whoever, in violation of the rules of international law, during war, armed conflict or occupation, orders an attack to be carried out against the civilian population, a settlement, individual civilians or persons hors de combat, where such attack results in death, serious bodily injury or serious impairment of human health; or orders an indiscriminate attack affecting the civilian population; or orders that the civilian population be killed, tortured or subjected to inhuman treatment; or that biological, medical or other scientific experiments be carried out on them; that tissues or organs be taken for the purpose of transplantation; or that great suffering or injury to bodily integrity or health be inflicted upon them; that displacement or resettlement be carried out, or forced denationalisation or conversion to another religion; **forced prostitution or rape**; the application of measures of intimidation and terror; the taking of hostages; the application of collective punishment; unlawful deportation to concentration camps and other unlawful detention; deprivation of the right to a fair and impartial trial; coercion into service in the armed forces of the enemy power or in its intelligence service or administration; coercion into forced labour; starvation of the population; confiscation of property; plundering of the population's property; unlawful and arbitrary destruction or appropriation on a large scale of property not justified by military necessity; the taking of unlawful and disproportionately large contributions and requisitions; debasement of the national currency or unlawful issuance of money; or whoever commits any of the aforementioned acts, shall be punished by imprisonment for a term of **not less than five years or by a term of imprisonment of twenty years.***

**Since 2015, the CC has undergone as many as eight amendments. Nevertheless, with regard to the war crime of rape, it has remained essentially unchanged: Article 91(2)(25) expanded the criminal zone by explicitly including sexual violence as an act constituting the commission of a war crime, while at the same time reducing the prescribed minimum sentence of imprisonment to three years.**

**(2) Whoever, in violation of the rules of international law, during war, occupation, an international armed conflict or a non-international armed conflict, commits other serious violations of the laws and customs applicable in an international armed conflict or in an armed conflict not of an international character, that is, any of the following acts:**

1. directing attacks against the civilian population or against individual civilians not taking a direct part in hostilities;
2. directing attacks against civilian objects, that is, objects which are not military objectives;
3. directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, so long as they are entitled to the protection afforded to civilians or civilian objects under international humanitarian law;
4. launching an attack in the knowledge that such attack will incidentally cause loss of life or injury to civilians or damage to civilian objects, or widespread, long-term and severe damage to the natural environment, which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
5. attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
6. killing or wounding a combatant who has surrendered, having laid down arms or otherwise been rendered hors de combat;
7. the improper use of a flag of truce, the flag or military insignia and uniform of the enemy or of the United Nations, as well as the distinctive emblems of the Geneva Conventions, resulting in death or serious injury;

8. the transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or part of the population of the occupied territory within or outside that territory;

9. directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments and cultural property, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

10. subjecting persons who are in the power of an adverse party to physical mutilation, the removal of tissue or organs for transplantation, or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the persons concerned nor carried out in their interest, and which result in death or seriously endanger the health of such person or persons;

11. treacherously killing or wounding members of the hostile nation or army;

12. declaring that no quarter will be given;

13. destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;

14. declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

15. compelling nationals of the hostile party to take part in military operations directed against their own country, even if they were in the service of the belligerent party before the outbreak of war;

16. pillaging towns or places;

17. employing poison or poisoned weapons;

18. employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

19. employing weapons which use microbiological or other biological agents or toxins, whatever their origin or method of production;

20. employing bullets which expand or flatten easily in the human body;

21. employing weapons designed to injure by fragments which cannot be detected in the human body by X-rays;

22. employing specially designed laser weapons whose sole, or one of whose combat functions, is to cause permanent blindness;

23. employing weapons, projectiles, materials and methods of warfare which by their nature cause superfluous injury or unnecessary suffering, or which are inherently indiscriminate in violation of international humanitarian law, provided that such weapons, projectiles, materials or methods of warfare are the subject of a comprehensive prohibition;

24. outrages upon personal dignity, in particular humiliating and degrading treatment, collective punishment;

25. rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence constituting a grave breach of the Geneva Conventions;

26. using the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

27. directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

28. intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

29. conscripting or enlisting children into national armed forces or armed groups distinct from the armed forces of a State, or using them to participate actively in hostilities; or

30. ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand, **shall be punished by imprisonment for a term of not less than three years.**

**The cited amendment to the Criminal Code is in significant divergence from the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY) regarding the prosecution of sexual violence. In their judgments, the ICTY Trial Chambers clearly established that the criminal offence of sexual violence constitutes a crime against humanity and that it may be qualified as torture and as a grave breach of Article 27(2) of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which provides, inter alia, that:**

**“women shall be especially protected against any attack on their honour, in particular against rape...”**

Under the new Criminal Code, acts of sexual violence are regulated by specific provisions that prescribe penalties according to the gravity of the offence and the circumstances in which it was committed. Aggravating circumstances in this context include particular cruelty, severe consequences, or the particular vulnerability of the victim. The length of the sentence is determined by the form of the offence. **In the case of rape, a prison sentence of one to ten years is specifically prescribed.**

Inhuman treatment, as well as sexual violence committed during the war in detention facilities, prisons, and camps, was also prosecuted under Article 122 of the Basic Criminal Code of the Republic of Croatia as a war crime against prisoners of war, although such conduct was not explicitly included in the normative description of the offence.

#### **Article 122**

*Whoever, in violation of the rules of international law, orders that prisoners of war be killed, tortured or subjected to inhuman treatment; that biological, medical or other scientific experiments be carried out on them; that tissues or organs be taken for the purpose of transplantation; that great suffering or injury to bodily integrity or health be inflicted upon them; that they be compelled to serve in the armed forces of the enemy; or that they be deprived of the right to a fair and impartial trial; or whoever commits any of the aforementioned acts, shall be punished by imprisonment for a term of not less than five years or by a term of imprisonment of twenty years.*

**As well as under Article 119 of the BCLRC as the criminal offence of genocide, which likewise does not explicitly criminalize sexual violence.**

#### **Article 119**

*Whoever, with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, orders that members of the group be killed or that serious bodily injury be inflicted upon them, or that their physical or mental health be severely impaired; or that the population be forcibly displaced; or that the group be subjected to living conditions calculated to bring about its total or partial physical destruction; or that measures be imposed intended to prevent births within the group; or that children be forcibly transferred to another group; or whoever, acting with the same intent, commits any of the aforementioned acts, shall be punished by imprisonment for a term of not less than five years or by a term of imprisonment of twenty years.*

## 2. INTERNATIONAL LEGAL FRAMEWORK OF PROCESSING WARTIME SEXUAL VIOLENCE

The principal sources of international humanitarian law<sup>9</sup> are the four Geneva Conventions of 12 August 1949 – the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Geneva Convention relative to the Treatment of Prisoners of War and the Geneva Convention relative to the Protection of Civilian Persons in Time of War – and the two Protocols Additional to the Geneva Conventions of 12 August 1949, adopted on 8 June 1977: the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

Rape was explicitly mentioned for the first time in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and subsequently in the Additional Protocols to the Geneva Conventions, namely, Additional Protocol I on the protection of victims of international armed conflicts and Additional Protocol II on the protection of victims of non-international armed conflicts. The Fourth Geneva Convention devotes a specific provision to sexual violence (Article 27), which provides:

**“Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”**

This provision was repeated in almost identical wording in Additional Protocol I, which, in addition, contains a provision that explicitly prohibits sexual violence, albeit not as an attack on physical and sexual integrity, but rather as an attack on personal dignity.

Through the jurisprudence of the ICTY, sexual violence in armed conflict has been defined as a grave breach of the Geneva Conventions, encompassing the prohibition of torture, inhuman treatment, and the wilful causing of great suffering or serious injury to body or health. Of the sexual violence offences, the Statute of the ICTY<sup>10</sup> explicitly mentions only rape, categorizing it under crimes against humanity, which require proof that the offences committed were part of a widespread or systematic attack directed against a civilian population.

The Statute of the International Criminal Tribunal for Rwanda (ICTR) also refers to rape as a crime against humanity; however, Article 4 further refers to “rape, enforced prostitution and any form of indecent assault” as violations of the Geneva Conventions and of Additional Protocol II, qualifying them as “outrages upon personal dignity, in particular humiliating and degrading treatment.”

Commenting on the problematic references in international law that associate sexual violence with notions of morality and honour, the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict noted that “international humanitarian law, as well as national laws, often contain provisions protecting the ‘honour’ of women, implying that the victim of sexual violence has in some way been ‘dishonoured’ by the attack. (...) **The only party without honour in any rape or situation of sexual violence is the perpetrator. While rape is indeed an attack on human dignity and bodily integrity, it is first and foremost a violent criminal offence.**”<sup>11</sup>

The most significant contribution to the development of the legal framework governing the prosecution of sexual violence in armed conflict stems from the jurisprudence of the aforementioned tribunals. Thus, the definition of rape adopted by the ICTY in the Kunarac case excludes the elements of force and resistance and defines rape as “sexual penetration committed without the consent of the victim. Consent (...) must be given voluntarily, as a result of the victim’s free will, and is assessed in the context of the surrounding circumstances.”

The Statute of the International Criminal Court (ICC) represents the first international treaty to explicitly recognize a broad spectrum of sexual violence as constituting the most serious international crimes, clearly qualifying sexual violence as an attack on physical and sexual integrity rather than merely as a violation of honour or dignity. Under the Statute (commonly referred to as the Rome Statute), “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” constitute crimes against humanity, as provided for in Article 7(1)(g).

### **3. PROCEDURAL RIGHTS OF VICTIMS OF WAR-RELATED SEXUAL VIOLENCE IN CRIMINAL PROCEEDINGS AND THE IMPLEMENTATION OF DIRECTIVE 2012/29/EU**

**Victims of conflict-related sexual violence play a crucial role in trials for war crimes. Given the long period that often elapses between the commission of the crime and the beginning of criminal proceedings, as well as the frequent absence of material evidence, witness testimony has a decisive impact on the outcome of such proceedings. However, in order for victims to participate in these proceedings, it is essential to provide them with adequate protection and support.**

Pursuant to the **Criminal Procedure Act** (National Gazette nbs. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 80/22, 36/24, 72/25; hereinafter: CPA), the rights of victims of criminal offences against sexual freedom and sexual morality are prescribed. In criminal proceedings conducted against perpetrators of war crimes committed through rape or other forms of sexual violence, these rights apply to the victim:

(4) A victim of a criminal offence against sexual freedom and a victim of the criminal offence of trafficking in human beings shall, in addition to the rights belonging to a victim pursuant to Article 43 of this Act, also have the right:

- 1) to consult with a counsellor prior to being examined, at the expense of budgetary funds;*
- 2) to legal representation at the expense of budgetary funds;*
- 3) to be examined by a person of the same sex in the police and the State Attorney's Office and, where possible, in the event of a repeated examination, to be examined by the same person;*

- 5) to be examined by means of audio-video recording equipment (Article 292, paragraph 6 of this Act), unless the victim requests to be present in the courtroom while giving testimony;
- 6) to the confidentiality of personal data;
- 7) to request the exclusion of the public from the hearing.

In 2023, the Government of the Republic of Croatia has adopted an updated **Protocol on the Treatment of Cases of Sexual Violence**<sup>12</sup>, thereby establishing a standardized and coordinated model for the actions of competent authorities at all stages of reporting, prosecution, and the provision of assistance to victims of sexual violence. Although this instrument, together with the accompanying legislative amendments, has improved victim-protection mechanisms in comparison with the 2012 Protocol – particularly through its emphasis on the gender dimension of violence, the need to prevent secondary victimization, the protection of privacy, and the mandatory individual assessment of victims' needs – certain elements of the system have yet to be fully operationalized in practice. For example, it remains unclear which professionals are responsible for providing specialized psychological and legal support to victims, despite the obligations arising from the Protocol.

While rules prohibiting the questioning of victims about their prior sexual history constitute an important step toward alignment with international standards, the protection afforded by this provision remains narrower than that provided under the rules of international criminal tribunals, which also prohibit questioning about subsequent sexual conduct. The jurisprudence of the ICTY and the ICTR proceeds from the premise that the testimony of a single credible victim is sufficient to establish decisive facts, with the emphasis remaining on the context of coercion. The absence of consent, or the inability to freely exercise sexual autonomy due to coercive circumstances, constitutes the fundamental boundary between legally permissible and prohibited sexual conduct. A coercive environment, such as chaos, disorder, or lawlessness, may enable the perpetrator to commit acts of sexual violence even in the absence of physical force. In the context of armed conflict, such coercive circumstances are so pronounced that they give rise to a presumption of lack of consent, thereby eliminating the need for the prosecution to provide additional proof of that element.

Further advancement of the position of victims in criminal proceedings was brought about by Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support, and protection of victims of crime.<sup>13</sup> The Directive requires Member States to ensure that victims are treated with respect; that police officers, prosecutors, and judges receive appropriate training for working with victims; that victims are provided with clear and comprehensible information about their rights and about the proceedings; that support services are guaranteed across all Member States; that victims are able to participate in proceedings should they so wish and are assisted in doing so; that vulnerable victims, such as children, victims of rape, or victims with disabilities are identified and appropriately protected; and that victims are safeguarded throughout police investigations and court proceedings. Victims of crime should therefore be recognized and treated with respect, sensitivity, and professionalism, without discrimination on any grounds, including race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age, sex, sexual expression, identity or orientation, residence status, or health.

The provisions of the Directive were ultimately implemented into Croatian legislation only with the seventh amendment to the Criminal Procedure Act of 2008 (National Gazette nb. 70/17 of 19 July 2017).<sup>14</sup> Through the implementation of the Directive into the CPA, a range of rights was introduced for victims, both those applicable to all victims and those specifically applicable to victims of sexual violence. In the context of sexual violence, victims must be ensured effective psychological and other professional assistance and support from competent bodies, organizations, or institutions, immediately after the commission of the offence and for as long as necessary. However, the Act fails to incorporate the Directive's position that such support must be free of charge in order to be effective. The right to a mandatory individual assessment of the victim was also introduced and has been relatively well implemented in practice.

Furthermore, the right to protection from intimidation and retaliation was transposed into the CPA. However, the Act does not specify how such protection is to be ensured, nor which bodies are responsible for its implementation. The Directive elaborates this right in significantly greater detail and explicitly includes protection from secondary and repeat victimization. As it currently stands, the judicial system appears to have failed this test, given that, according to assessments by relevant departments and organizations, victims are most often questioned more than three times within a single criminal proceeding. Among the special rights, the victim's right to free legal aid should also be highlighted; this right has been interpreted very restrictively by the legislator, whereas, in the spirit of the Directive, it should be understood as encompassing both legal counselling and legal representation.

Although the Directive has been relatively successfully transposed into Croatian legislation, certain practical difficulties in the protection of victims persist. In particular, support and assistance to victims are currently provided by specialized departments within certain county courts (though not all) as well as by individual civil society organizations. Such a dual system of support is suboptimal, as it may hinder coordination between these actors. An additional problem lies in the fact that these services do not maintain a publicly accessible database of statistical indicators that could serve both as guidance for policymakers and as a mechanism for monitoring the effectiveness of the Directive's implementation.

## 4. RULES OF PROCEDURE AND EVIDENCE OF INTERNATIONAL CRIMINAL COURTS REGARDING SEXUAL VIOLENCE VICTIMS

The Statutes of the ICTY and the ICTR, as well as their respective Rules of Procedure and Evidence, regulated witness protection measures and founded units whose task is to provide aid and support to victims and witnesses.

Protection measures provided in statutes and rules are mainly focused on protection during procedure, and that is one of their limitations. They can be categorized as measures focused on protection of anonymity, protection of privacy (prevention of giving victims' personal information to media and public), and on minimizing trauma of testifying (the facilitation of testimonies from a particularly vulnerable group of victims).

Certain evidentiary rules are likewise aimed at minimizing the trauma of testimony, and there is a special rule (Rule 96) governing evidentiary standards in cases of sexual violence, designed to prevent the traumatization and discrimination of victims of sexual violence, which are frequent in proceedings before national courts.

*Rule 96 of the ICTY Rules of Procedure and Evidence provides as follows:*

### **Rule 96**

*Evidence in Cases of Sexual Assault (Adopted 11 February 1994)*

*In cases of sexual assault:*

- (i) no additional corroboration of the victim's testimony shall be required;*
- (ii) consent shall not be allowed as a defence if the victim*

*(a) has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression, or*

*(b) reasonably believed that if the victim did not submit, another person might be so subjected, threatened or put in fear; (Amended 3 May 1995)*

*(iii) before evidence of the victim's consent is admitted, the accused shall satisfy the Trial Chamber in camera that the evidence is relevant and credible; (Revised 30 January 1995)*

*(iv) prior sexual conduct of the victim shall not be admitted in evidence.<sup>15</sup>*

**International tribunals further developed this rule and the related case law through their judgments. In a consistent manner, they rejected resistance by the victim as an essential element of the crime of rape<sup>16</sup>, since consideration of the possibility of resistance in cases of rape and sexual violence places the focus on the conduct of the victim rather than on the acts of the accused, and also reflects the persistence of rape myths and stereotypes. The myth that a woman could have resisted, or the consideration of whether resistance was possible, is characteristic of an approach that shifts responsibility onto the victim or distributes blame between the victim and the perpetrator.<sup>17</sup> Applying the concepts of coercion and a coercive environment in accordance with international standards means applying the jurisprudence of the ICTY and the ICTR, which holds that crimes of sexual violence may be committed under "coercive circumstances" and not necessarily through the use of force or threats of force; that the concept of coercion is broader than physical force or threats thereof; and that this concept situates rape and sexual violence within a context emphasizing the power imbalance between the victim and the perpetrator. A gender-sensitive interpretation of coercion further encompasses its various forms, such as "fear of violence, duress, detention, psychological pressure, or abuse of a position of power."**

From the establishment of the ICTY until the completion of its mandate on 31 December 2017, 78 accused persons, representing 48% of the total 161 indicted, were charged with sexual violence. Thirty-two individuals were convicted of crimes of sexual violence pursuant to Article 7(1) of the ICTY Statute. An additional four accused were convicted for failing to prevent such crimes or punish the perpetrators, pursuant to Article 7(3) of the Statute.<sup>18</sup>

**Rule 96 further provides that:**

*(i) no additional corroboration of the victim's testimony shall be required*

This rule ensures that crimes of sexual violence are not subjected to the strict evidentiary standards applied to other types of crimes, thereby addressing a persistent difficulty encountered by national judicial systems. It reflects a realistic understanding of the specific nature of sexual violence crimes, which are typically committed without witnesses or only in the presence of witnesses acting in concert with the perpetrator.

*(ii) consent shall not be allowed as a defence if the victim*

*(a) has been subjected to or threatened with or has had reason to fear violence, duress,*

*(b) reasonably believed that if the victim did not submit, another person might be so subjected, threatened or put in fear; (Amended 3 May 1995)*

In addition, Rule 96 defines the circumstances under which evidence of consent shall not be admitted. In the cases of Kunarac et al. and Gacumbitsi, the Appeals Chambers of the ICTY and the ICTR, respectively, confirmed that lack of consent is an element of the crime of rape that must be proven by the prosecution. Rule 96 further specifies how lack of consent may be established; in other words, where rape occurs in the context of an ongoing genocidal campaign or the victim's detention, the Trial Chamber may conclude that consent was absent.

*(iv) prior sexual conduct of the victim shall not be admitted in evidence*

This provision excludes evidence relating to the victim's previous sexual behaviour from the evidentiary record. In the Mucić et al. case, the Trial Chamber explained that the purpose of this rule is to "adequately protect victims from harassment, embarrassment and humiliation." The Chamber further noted that the admission of such evidence "could lead to confusion as to the issues in dispute and thereby undermine the fairness of the proceedings," reducing the process to "an attempt to challenge the reputation of the victim" and resulting in "further distress and emotional harm to witnesses."

Furthermore, the Statute of the International Criminal Court<sup>19</sup> provides, in Article 68, for measures to protect victims of crimes and witnesses, as well as for their participation in proceedings. Article 68(3) of the Statute allows victims to be represented by legal representatives who may present victims' views and concerns and propose evidence during the proceedings. Article 75 of the ICC Statute governs reparations to victims of crimes, while Article 79 establishes the Trust Fund for Victims.

**Article 75 of Rome Statute**

Reparations to victims

*(1) The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.*

*(2) The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in article 79.*

*(3) Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.*

*(4) In exercising its power under this article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under article 93, paragraph 1.*

*(5) A State Party shall give effect to a decision under this article as if the provisions of article 109 were applicable to this article.*

*(6) Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law.*

Through the Rome Statute, two independent institutions were created: the permanent International Criminal Court (with 124 States Parties<sup>20</sup>) and the Trust Fund for Victims (TFV). The crimes for which the Trust Fund provides assistance include genocide, war crimes, crimes against humanity, and the crime of aggression. The Trust Fund may operate independently of the existence of a conviction by the Court. It actively raises donations for programmes supporting survivors of conflict-related sexual violence, thereby implementing judicial orders and ensuring holistic rehabilitation for victims, including medical and psychological care, education, and economic reintegration.

## 5. REPARATIONS TO VICTIMS OF WARTIME SEXUAL VIOLENCE IN CROATIA

The Act on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War (National Gazette nb. 64/15), adopted with a delay of more than twenty years, represents the first reparations-based legal framework for victims of wartime sexual violence in Croatia. The Act regulates both a one-time compensation payment and a monthly allowance for victims of sexual violence committed during the war. In addition, beneficiaries may exercise a range of rights relating to psychosocial support; legal assistance; healthcare; medical rehabilitation; systematic medical examinations; compulsory and supplementary health insurance; and accommodation in institutions providing support and services to the veteran and war-affected population and other persons. Of particular importance is the fact that this Act removed evidentiary obstacles previously prescribed by the Act on the Protection of Military and Civilian War Invalids, which required proof exclusively in the form of material evidence, such as written confirmation of the circumstances under which the incident occurred or medical documentation of treatment immediately following the injury.<sup>21</sup>

Two by-laws were adopted pursuant to the Act: the Rulebook on the Organisation and Method of Work of the Commission for Victims of Sexual Violence, and the Rulebook on the Conditions and Method of Acquiring the Status and Rights of a Victim of Sexual Violence in the Homeland War (National Gazette nb. 97/15). These introduced a number of innovations, including the appointment of experts through public calls and special procedural rules governing the conduct of the Commission for Victims of Sexual Violence when contacting applicants and during the taking of statements (only once during the procedure and by a single person, usually a psychologist). The rules require that applicants be treated with consideration, in a manner that is least traumatic for them, taking into account their age and physical and psychological condition, with due respect for their traumatic experience, the establishment of a relationship of trust, and the avoidance of prejudice on any grounds. They also provide for the presence of a support person of the victim's choosing.

The International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, adopted in 2015 at the London Summit on Sexual Violence in Conflict, became part of international standards and was applied in the work of the Commission for Victims of Sexual Violence. The application of the standards defined by the Protocol significantly facilitated the procedure for victims: statements were given to only one person (a psychologist), and those statements were then read before the Commission at a session convened for the particular case. The statements were examined in detail by experts from various professional backgrounds.

*From preamble of the Act:*

*During the Homeland War, the Republic of Croatia suffered various destruction and significant human casualties. But despite the twenty years gap, one segment of victims was not shown enough attention, and those are persons who were victims of sexual abuse during Homeland war, most of them being women.*

*The main principle and requirements of international humanitarian law are implemented in Croatian legislation, obligating the state to protect basic human rights and freedoms. The victims' right to a lawful and adequate compensation is firmly implemented in international law.*

**Although this Act, as well as the work of the Commission presented a significant step forward in the humanisation of the process of taking statements from survivors of wartime sexual violence and constituted a precedent of positive practice, certain provisions of the Act nevertheless prevent the provision of reparations to all victims of wartime sexual violence.**

*In order to exercise the rights arising from the Act, a person "must not have participated, during the Homeland War, in enemy military or paramilitary units or in acts endangering the constitutional order and security of the Republic of Croatia; must hold the citizenship of the Republic of Croatia or of a Member State of the European Union; must have had registered residence or temporary residence at the time of the sexual violence; and must obtain a positive opinion of the Commission for Victims of Sexual Violence."*

These provisions are highly problematic and contrary to the Geneva Conventions and the Rome Statute. The explicit prohibition of sexual violence is codified in Article 27(2) of the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War. Additional Protocol II, which relates to non-international armed conflicts, prohibits “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.”

The incompatibility of the Act with these international mechanisms is also evident in its definition of sexual violence through a so-called “closed list” of prohibited acts, which does not encompass all serious forms of sexual abuse affecting a person’s physical and moral integrity. In defining sexual violence in Article 1(2) of the Act, the following acts are omitted: “indecent acts, sexual harassment, torture and other acts of sexual violence that violate human dignity, in particular humiliating and degrading treatment, all serious forms of sexual abuse affecting the physical and moral integrity of a person,” as well as forced marriage. Paragraph 2 further omits references to fear of violence, coercion, detention, psychological oppression or abuse of a position of power against that person or another person, through the exploitation of a coercive environment inherent in wartime circumstances, as well as situations involving a person incapable of giving genuine consent. **Such a definition of sexual violence does not favour victims, given that indecent acts constitute a severe intrusion into sexual autonomy yet are not covered by the Act.**<sup>22</sup>

**The exclusionary nature of the Act is also evident in Article 14**, which provides that the status of a victim of sexual violence may be granted only on the condition that “the applicant was not a member, aide or collaborator of enemy military or paramilitary units, or was not finally convicted for participation in enemy military or paramilitary units or for endangering the constitutional order and security of the Republic of Croatia.” It is extremely unclear who determines who qualifies as an aide or collaborator of enemy military units, and this provision creates the possibility of discriminatory application of the Act against persons of Serbian nationality who were victims of sexual violence in Croatia between 1991 and 1995. **Such a normative framework not only de facto excludes these victims but also deters Serbian civilian victims from submitting applications at all, raising serious concerns regarding compliance with the principles of non-discrimination and a victim-centred approach, and potentially further entrenching existing patterns of marginalisation.**

This provision is inconsistent with Article 3 common to the Geneva Conventions of 1949, which provides that no party to the conflict may torture or rape “persons taking no active part in hostilities.” Moreover, under international law, the State has an obligation to ensure reparations for acts or omissions attributable to it that constitute breaches of its obligations under international human rights law or international humanitarian law.<sup>23</sup>

In addition, since the **UN Security Council, through Resolution 1820 (2008)**, condemned sexual violence as a tactic of war, the State should enable reparations for all victims of this crime on the territory of the Republic of Croatia, regardless of their status during the conflict.

**When viewed in the context of the Constitution of the Republic of Croatia**, it can also be observed that this provision is inconsistent with Articles 14 and 15 of the Constitution, as it places injured parties in an unequal position and, ultimately, may be presumed to directly exclude members of the Serbian national minority from obtaining compensation under Croatian legislation for the sexual violence they suffered. For these reasons, the Act has been brought before the Constitutional Court on several occasions; however, the Court has each time held that it is in conformity with the Constitution.

## 6. PROBLEMS IN THE CASE LAW OF NATIONAL COURTS

In order to examine the problems of proving rape and sexual violence committed during war crimes trials—issues that were identified by interview participants as particularly problematic—we analysed criminal proceedings through the lens of Rule 96, focusing on a war crimes trial in case K-Rz-8/12. This analysis encompassed both first-instance judgments and decisions of the Supreme Court of the Republic of Croatia on appeals filed either by the defendants or by representatives of the competent County State Attorney's Offices in that case.

The trial began in 2007 in the absence of the defendants. The Supreme Court of the Republic of Croatia quashed the first-instance judgment and remitted the case for retrial. The second trial commenced in 2012, with one of the defendants present until the delivery of the judgment. The first-instance judgment finding the defendants guilty became final in January 2013. None of the convicted persons is serving the prison sentence imposed by the judgment, as they remain unavailable to the Croatian judiciary. The injured party, who was raped on multiple occasions, repeated her testimony both during the investigation and throughout the trial.

In the case prosecuted before the County Court in Vukovar and subsequently before the County Court in Osijek, the defendants were charged with a war crime against the civilian population, namely rape committed in Vukovar in 1991. According to the testimonies of the injured party and the witnesses, during the occupation of Vukovar the injured party was accommodated in an apartment together with two other women, in the home of a married couple. The first defendant, who had been known to the women prior to the war, came to the apartment one day and asked which of the three women would go with him to wash his laundry. The injured party went with him, and after she had washed the laundry, he ordered her to undress. According to her testimony, when she refused, the defendant threatened that if she did not have sexual intercourse with him, he would bring "the whole battalion." The witnesses stated that, when recounting the event to them shortly after it occurred, the injured party said that he had threatened that she would "end up like godfather Mirko," who had been killed.

The witnesses stated that, when recounting the event to them shortly after it occurred, the injured party said that he had threatened that she would "end up like godfather Mirko," who had been killed. The witnesses also described how, upon returning to the apartment, the injured party was wailing and vomiting, and later told them that she had been raped.

The witnesses also described how, upon returning to the apartment, the injured party was wailing and vomiting, and later told them that she had been raped. According to the testimony of the injured party and the witnesses, on another occasion three armed members of paramilitary units came to the same apartment and told the injured party to choose which of the three men she would have sexual intercourse with in order to be spared rape by other members of the unit. She pointed to the second defendant, and from that point on, for the following month, he came for her every day, took her to another apartment, and raped her there.

In addition to the injured party and the persons who had shared the apartment with her during the occupation of the city, a court-appointed psychologist also testified at trial. She stated that the injured party suffered from several psychological difficulties, including PTSD, but that her capacity for memory and perception was satisfactory and that she was capable of giving a credible testimony.

The County Court in Osijek sentenced the first defendant to eight years' imprisonment and the second defendant to five years and six months' imprisonment. Following the delivery of the judgment, both the defendants and the State Attorney filed appeals, and the case was taken over by the Supreme Court. While the Supreme Court partially upheld the appeal of the first defendant by reducing his sentence to six years' imprisonment (considering that the County Court had overestimated the significance of his flight prior to sentencing), it dismissed the appeal of the second defendant in its entirety and increased his sentence to six years' imprisonment.

Below we provide a brief analysis of those aspects of the Supreme Court's judgment that are relevant in the context of this report.

Rejecting the first defendant's appeal that the injured party had voluntarily engaged in sexual intercourse with him, the Supreme Court argued:

*The defendant is charged with using threats, rather than force, implying an attack on the victim's life and body, all with a goal of forcing her to have sexual intercourse. In the situation of the town of Vukovar being occupied and war going on in the Republic of Croatia, it is undeniable that the defendant took advantage of the fear that for the injured party was undeniably real and strong after seeing her cousin A.J. on the road and, in the house she was taken to, seeing heavily beaten V.K. who, as she later heard, was later killed, which she testified to during the process.*

The reasoning also emphasised that "the injured party and a witness stated that she was told to choose one of the three men, otherwise the entire battalion would rape her," concluding that "in light of the above, the appellant R. I.'s claim that the injured party consented to sexual intercourse is, to say the least, unacceptable."

Such a judgment, emphasising that the use of physical force is not required for an act to be classified as rape, that a threat is sufficient, analysing the defence argument concerning the injured party's consent, and highlighting the context in which the offence was committed, which caused fear and psychological pressure on the injured party, is consistent with Rule 96(ii)(a), under which consent cannot be used as a defence if the victim was subjected to violence, coercion, detention or psychological pressure, or threatened therewith, or had reason to fear such treatment.

It is also noteworthy that the Supreme Court, in its decision, refers to the testimony of a witness who confirmed that upon returning to the apartment of the married couple, the injured party told her that she had been raped and that she was "wailing and vomiting." This indicates that indirect witness testimonies were considered relevant and that the testimonies of women were believed, yet additional corroboration of the victim's testimony was still sought.

Furthermore, the second defendant, inter alia, complained of discrepancies and inconsistencies in the testimonies of the examined witnesses. The Supreme Court rejected this ground of appeal, explaining that:

*The groundlessly accused D.I. in his complaint insists on differences in the witnesses' testimony that are irrelevant, as these are a reflection of multiple questionings during more than 20 years, which is the time that had passed since the event took place and these differences are not enough to conclude that the witnesses are not convincing and credible enough.*

From this reasoning, it is evident that the court took into account the nature of memory, namely the impact of the passage of time on recollection, and relied on other methods of assessing the credibility of testimony, thus demonstrating that, in this respect as well, it considered the women's testimonies credible. Finally, although it is undisputed that the new Criminal Code is more lenient for the perpetrator due to the prescribed minimum prison sentence, in this case, as already noted, the Supreme Court increased the sentence of the second defendant by six months, holding that the first-instance court had failed to take into account that the defendant had "over a prolonged period of time and repeatedly broken the resistance of the injured party, who had already been physically and psychologically broken, as rightly pointed out by the State Attorney in the appeal."

Furthermore, when discussing the procedural rights of victims of war-related sexual violence in criminal proceedings, it is important to note the most recent legislative amendments concerning the examination of victims in criminal proceedings.

Pursuant to Article 292(6) of the Criminal Procedure Act, the examination as a witness of, inter alia, a victim of a criminal offence against sexual freedom, the criminal offence of trafficking in human beings, or the criminal offence of violence against women, in respect of whom special protection needs have been established in accordance with Article 43a of the Criminal Procedure Act, shall be conducted by means of **audio-video equipment operated by a qualified professional**, without the presence of the judge and the parties in the room where the victim is located. **The examination is recorded, and the recording is sealed and attached to the record.** Such victims may be re-examined only exceptionally, if the court considers this necessary. The victim may also be examined in the courtroom, in the presence of the parties to the proceedings (the prosecutor and the defendant), exclusively if the victim so requests. **Thus, the rule is examination via audio-video link, while examination in the courtroom is permitted only exceptionally and at the victim's own request.**

In addition, given that individual cases are also being analysed, it is important to note that the examination of victims of sexual violence most often takes place during the pre-trial stage of criminal proceedings, at an evidentiary hearing, where victims are likewise examined via audio-video link. Prior to this, a procedure is conducted to determine whether there is a need to apply special protective measures available to the victim during the criminal proceedings.

The analysis of the following case is based on the indictment and direct observation of the trial proceedings. The case concerns an indictment charging the accused with the rape of a woman in 1991, committed as a member of the Daruvar Territorial Defence during the armed conflict between the Armed Forces of the Republic of Croatia and the Yugoslav People's Army and Serbian paramilitary formations in Doljani. According to the testimonies of the injured party and witnesses, she and her family members were hiding in the basement of their house because gunfire could be heard almost throughout the day. In the afternoon, a group of armed persons ordered them to come out into the garden, where they had to lie on the ground and answer questions posed by the armed men, without looking at them.

Among other questions, they asked the injured party where her son was, and when her father-in-law raised his head toward the interrogators to answer more easily, they threatened to kill him if he looked at them again. One armed man then took the injured party to the basement to check whether anyone else was hiding there and told her that they had killed two people from the village. After the questioning, the family was taken back to the basement, and several neighbours were brought there as well. After some time, the injured party was called out of the basement and told to show the armed men where the drinks were located. After she did so, she remained alone in the kitchen with three armed men, two of whom raped her. As the injured party described, they did not otherwise physically abuse her, but they had sexual intercourse with her against her will. She was then returned to the basement, and later everyone in the basement was told to wait about twenty minutes so as not to see the direction in which the armed men left, and then to disperse. The following day, the injured party again hid in the basement with her family due to the sounds of gunfire, and the day after that they left Doljani for Novoselec, where she told a woman that she had been raped and asked her to take her to a gynaecologist, which the woman did the following day. The injured party submitted to the court medical documentation from that examination, as well as documentation of psychological expert evaluation and treatment. The gynaecological findings did not indicate physical injuries, but the injured party underwent long-term treatment for psychological trauma. She was granted the status of a civilian victim.

The accused was arrested on the basis of a list of members of the Daruvar Territorial Defence and an identification procedure conducted in 2015, during which the injured party determined, though not with complete certainty, that he was one of the perpetrators of the rape.

The courtroom in which the trial took place was of appropriate size and was opened only after two police officers escorted the accused inside in handcuffs. The injured party was seated on a chair approximately two to three metres in front of the accused, facing the judicial panel and with her back to the accused. She was questioned by the presiding judge, a representative of the County State Attorney's Office, two defence attorneys, and the accused himself. She was not asked any inappropriate or personal questions (almost all questions related to a more detailed description of the perpetrator and the circumstances), and all participants treated her with respect.

Her testimony was delivered in a calm, even tone, but was very sparse in detail. When questioned, she was unable to provide more detailed descriptions of the perpetrators, stating that she could not remember, nor could she provide a more detailed description of the rape itself.

During the deliberation of the judicial panel on the further course of evidentiary proceedings, all persons present in the courtroom were required to leave and wait in the corridor. The accused stood in handcuffs with two police officers and his lawyers, while the injured party stood with the witnesses and a representative of the Department for Victim and Witness Support, who asked her how it had gone and whether she wanted water, etc. There was sufficient space and enough people between the injured party and the accused to prevent any potential discomfort.

The representative of the Department for Victim and Witness Support also accompanied the injured party and the two witnesses to the courtroom and remained with them outside the courtroom throughout the entire hearing.

**With regard to judicial practice in applying the principles of Rule 96, we observe the following:**

**Rule 96 (I):** Besides the exploited party's statement, two witnesses who were not direct witnesses testified, and one of them found out about the case two days after it already happened. The exploited party was asked about medical examination after occurrence, but it seemed as though both the judge and assistant to the County's state attorneys accepted her statement that "the gynecological results were fine" but that she was indeed treated for psychological difficulties.

**Rule 96 (II):** The judge asked the injured party for every person she **mentioned** -the individuals that questioned them in the garden, the person who took her in the basement, the individuals that raped her - if they were armed and if they had threatened her. When dictating the typist what to write in the record, the judge emphasized that members of Daruvar Territorial Defense threatened to kill the injured party's father in-law when he looked at them, told her that they had killed two of their neighbours, and questioned her about her son, emphasizing circumstances that brought fear to the exploited party.

**Rule 96 (IV):** As previously mentioned, no personal questions, nor questions regarding her previous or subsequent sexual life were asked.

We have no information on whether the exploited party was familiarized with all of her rights, before the beginning of the judicial process, if she was provided with free legal and psychological support, or if she was adequately prepared for her testimony, but we did notice that during the judicial process she did not have a legal representative, which is a consequence of unclear national rules. In the end, the accused was released of charges due to a lack of incriminating evidence.

## **CASE LAW ON THE ACT ON THE RIGHTS OF VICTIMS OF SEXUAL VIOLENCE DURING THE ARMED AGGRESSION AGAINST THE REPUBLIC OF CROATIA IN THE HOMELAND WAR**

Numerous civil society organisations have pointed to problems in the application of the **Act on the Rights of Victims of Sexual Violence during the Homeland War**, emphasising that courts often reject requests for recognition of the status of a victim of wartime sexual violence on grounds such as the categorisation of the act as individually motivated, the assessment of the place where the offence occurred, or the status of the perpetrator. Such practice results in a significant number of survivors remaining without formal recognition and the associated rights, while proceedings for deciding on applications are lengthy and the data on the number of submitted and resolved applications are significantly lower than estimates of the actual number of victims.

The reasons for these criticisms are evident in the case law related to the application of the Act on the Rights of Victims of Sexual Violence and stem primarily from its restrictive interpretation by the courts. Thus, the Administrative Court dismissed the claim of a claimant who challenged the legality of the decision of the Ministry of Croatian Veterans rejecting her request for recognition of victim status. She relied on a certificate confirming sexual violence suffered in Bosnia and Herzegovina as a member of the Croatian Defence Council (HVO) and on the international Agreement between the Republic of Croatia and Bosnia and Herzegovina on the rights of war victims, arguing that the defence of Croatia also encompassed territory in Bosnia and Herzegovina.

The Administrative Court found the claim unfounded. The Court rejected a similar claim in which the claimant argued that, as a member of the Croatian Army, she had participated in military operations in Bosnia and Herzegovina and that the violence was connected to the armed aggression against the Republic of Croatia, accepting the Ministry's interpretation that membership in the Croatian Army in Bosnia and Herzegovina **does not meet the statutory requirements for recognition of victim status.**

A particular dimension of judicial practice concerns male victims of sexual violence. Although women remain the most frequent victims, data from the Ministry of Croatian Veterans indicate that from the entry into force of the Act until 11 November 2022, a total of 296 applications were received, **74 of which were submitted by men. This data confirms that sexual violence in armed conflicts also affects men, but that their victimisation is often less visible in public discourse.** In one case, the Administrative Court in Zagreb rejected the claim of a male applicant who alleged a violation of the principle of gender sensitivity during questioning and argued that the violence committed against him occurred within the temporal and contextual framework of the aggression against the Republic of Croatia. The Court found that the act of sexual violence itself was not in dispute, but concluded that its direct connection to the aggression had not been established. Instead, it determined that the act had a primarily material and political motive and that elements of organised action by enemy armed forces had not been established. **The proposal to obtain an expert opinion from the Croatian Memorial-Documentation Centre of the Homeland War was also rejected.**

From the cited case law, at least two key problems in the interpretation and application of the Act are apparent:

- 1. the narrow interpretation of the territorial scope of the Act; and**
- 2. the requirement that sexual violence must result from the organised action of enemy armed forces.**

Besides the restrictive interpretation of the preconditions for recognising victim status, practice has also recorded cases in which a request for increased monetary compensation was rejected in situations of forced pregnancy as a consequence of sexual violence. Such decisions have further raised the question of the scope of the reparative aspect of the Act, that is, the extent to which the compensation system recognises the specific and long-term consequences of particular forms of sexual violence.

Regarding reparations for victims of war-related sexual violence in Croatia, as a rule, where criminal proceedings are conducted against the perpetrator, victims may, within those proceedings, file a civil (property-law) claim seeking compensation for the non-pecuniary damage they have suffered as a result of the criminal offence. Although there has long been an unfavourable judicial practice of courts declining to decide on such civil claims and instead referring victims to separate civil litigation, **in recent years several decisions of the Constitutional Court have gradually led to a shift in this practice and to a greater number of awards of civil claims for violations of personality rights** (that is, for the physical and psychological consequences suffered by victims). However, a practical problem arises where a victim of war-related sexual violence in Croatia is awarded a civil claim by a criminal court judgment, yet there is no real possibility of obtaining compensation from the perpetrator (for example, because the perpetrator is unavailable, lacks assets, or for similar reasons). In such cases, victims often possess only a "paper" right to compensation from the perpetrator, which they are unable to enforce in practice. At the same time, this prevents them from fully exercising their rights under the Act on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War, specifically the right to a one-off monetary compensation. **The competent ministry takes the position that even such a "paper" entitlement to compensation, although never actually realised, precludes the exercise of the right to the one-off monetary compensation through the application of the provision on set-off, namely Article 37(6) of the Act.**

The issue of the compatibility of the Act with the Constitution of the Republic of Croatia was examined by the Constitutional Court in case U-I/53/2016. The applicants challenged several provisions of the Act (Articles 1–3, 5, 10–15, 24, 25 and 30), alleging violations of the constitutional principles of equality, non-discrimination, legal certainty and the rule of law.

They argued that the definitions of sexual violence and victim status were overly narrow and formalistic, based primarily on temporal, territorial and procedural criteria, and that they insufficiently took into account the context of coercion, wartime circumstances and the particular vulnerability of victims. They also criticised the closed list of forms of sexual violence, the restrictive understanding of consent, the equalisation of responsibility of all armed and paramilitary formations, and the cumulative requirements of citizenship, residence and non-affiliation with enemy forces, which they believed resulted in the exclusion of a significant number of actual victims from the system of protection and reparations. Furthermore, they pointed to deficiencies in the institutional and procedural framework for the implementation of the Act, particularly regarding the role, independence and powers of the Commission, as well as to the limited scope of rights and the non-individualised monetary compensation, which does not ensure comprehensive rehabilitation or fair reparation.

The Constitutional Court of the Republic of Croatia concluded that the contested provisions of the Act were not inconsistent with the Constitution and rejected the proposals to initiate constitutional review proceedings. However, there is also a positive example in the Constitutional Court's case law, in which the Court, acting upon a constitutional complaint, found a violation of the right to a fair trial, emphasised the need for a **gender-sensitive and contextual evaluation of the testimonies of victims of sexual violence**, quashed the contested judgments and remitted the case for re-examination.

## 7. RESEARCH RESULTS

For the purpose of this report, we have conducted half-structured interviews with experts who are in contact with wartime sexual violence victims (representatives of several professions that have experience regarding processing cases of rape as an aspect of committing a war crime – attorneys, members of the judiciary, psychologists, civil society organizations, victims and witnesses support departments, trial monitors). Names or other personal information of interviewed people shall not be revealed pursuant to the Act on the Protection of Personal Information, but we think that the opinions and comments of the people interviewed are relevant for conclusions in this report, considering their vast experience working on cases of wartime rape throughout the years.

Even though the viewpoints of the interviewed people differ regarding the need for implementing Rule 96 into national legislation (Criminal Procedure Act), all examinees agreed the Act needed to be improved, especially when it comes to the necessity of education for experts, courts and other institutions to more effectively carry out measures necessary for minimizing potential retraumatization while giving statements

### **Below we present the conclusions of the research:**

- Reporting of rape and sexual violence has intensified after 2012, as a result of the activities of civil society organisations and the adoption of the new law on reparations for victims of wartime sexual violence.
- All respondents observed practical problems related to victim testimony, as victims often testified more than twice; the passage of time affects the credibility of testimony; and there are difficulties in identifying direct perpetrators (photo line-ups, unavailability of defendants).
- Due to the lack of material evidence, criminal prosecution is based on the testimony of the victim and other witnesses (eyewitnesses or “second-hand” witnesses), which is why testimony is taken in great detail.
- An example of good practice is the work of the Commission for Victims of Sexual Violence, which drew all essential information from the statement of the applicant: immediate and long-term physical, psychological and social consequences of the experienced sexual violence; whether anyone noticed that something was wrong with the person upon returning to acquaintances even if nothing was verbally stated; and similar factors. For the purpose of obtaining a comprehensive victim statement, a list of questions covering all relevant data was developed. The same approach should be applied in criminal proceedings, by developing a list of questions covering relevant areas when taking testimony. The questions posed by the Commission relate to: immediate psychological reactions, long-term psychological reactions, injuries, disclosure of the event to other persons in any manner, observations by others, and the direct presence of other witnesses.
- During the taking of testimony at trial, a lack of sensitivity was observed, as well as an attitude that “rape is marginalised as a war crime, because neither society nor institutions are prepared to prosecute cases of sexual violence.” In some cases, inappropriate and irrelevant questions directed against the integrity of the injured party/victim were asked in courtrooms, along with passivity of judicial panels in prohibiting such questions.
- Court buildings are inadequate for providing protection to witnesses and victims (of sexual violence), and encounters in corridors are sometimes unavoidable; therefore, they should be adapted as much as possible for the testimony of vulnerable witnesses.
- We observed improvements in the legislative framework relating to procedural rules, with further amendments forthcoming that will further elaborate the position of victims (of sexual violence). Victims who report a crime to the police are given written information about their rights in criminal proceedings, including contact details of the Victim and Witness Support Department, which they can contact for assistance and support. Police officers are not obliged to explain every right, nor are they required to know all rights. The Victim and Witness Support Department provides information on rights and their exercise, and when victims contact them at an early stage, there are examples of positive practice from the beginning through to the delivery of a final judgment. A problem remains in ensuring victims’ access to information. Albeit, it is commendable that all the county courts have a Department for victim and witness support<sup>24</sup>, but the police often does not refer victims and witnesses to them.

- The provisions of Rule 96 should certainly be more concretely incorporated into domestic legislation and/or practice. Accordingly, all respondents advocate for multidisciplinary training of professionals involved in criminal proceedings in order to ensure that their actions follow the guidance set out in Rule 96.
- Further development of the support system modelled on all protective measures of the ICTY is necessary, as these proved very useful in assisting and supporting witnesses (witness support units, case managers responsible for witnesses, security services, access to medical examinations; in particularly vulnerable cases, a family member could attend the trial in the role of emotional support, as well as the availability of professional support services). In Croatia, services for the protection and support of victims and witnesses should therefore be professionalised. Current services provide emotional support, but not professional support for processing traumatic events, empowerment, and stabilisation of witnesses. They are even instructed not to discuss the crime itself or their lived experience, meaning that it remains painful and victims come to court psychologically unprepared. Services need to be developed that are professional and capable of stabilising and psychologically preparing witnesses. This does not mean instructing them on what to say in court, but rather repeatedly processing emotionally charged memories, establishing control over them so that testimony can be given more calmly, coherently and without intense psychological reactions.
- For courts, the Act on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War does not provide a sufficiently broad discretionary framework for recognising victim status for a wider range of victims who undoubtedly experienced wartime sexual violence.

## 8. RECOMMENDATIONS

1. Clearly define which authority is responsible for providing the legally prescribed psychological and legal assistance to victims of war-related sexual violence, and implement the relevant legislation accordingly, that is, develop an effective support system modelled on that established at the ICTY.
2. Provide additional education and sensitisation for all professionals who come into contact with victims of war-related sexual violence through multidisciplinary training, and encourage improved cooperation among different institutions.
3. Develop a standardised, detailed and sensitive list of questions to serve as guidance when taking statements from victims of war-related sexual violence, covering all information relevant to criminal proceedings, modelled on the list developed by the Commission for Victims of Sexual Violence. The questions should not be designed as a closed or mandatory set, but should depend on the specific circumstances of each individual woman who is a victim of war-related sexual violence. Each examination should be reduced to the minimum necessary, particularly given that these are most often women who suffer health consequences (e.g. PTSD) as a result of the sexual violence they endured.
4. Implement the principles of Rule 96 within the Croatian legislative framework. Although it appears that these principles are taken into account in Croatian judicial practice (though the extent of their application cannot be determined), their formal incorporation into legislation would further ensure their implementation and would symbolically signal the Republic of Croatia's commitment to facilitating access to justice for victims of war-related sexual violence.

5. Harmonise the Act on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War with international human rights protection mechanisms and the Constitution of the Republic of Croatia by broadening the definition of sexual crimes and enabling reparations for all victims of sexual violence committed between 1991 and 1995 on the territory of the Republic of Croatia, regardless of their status during the conflict.

6. Further formally relax the conditions relating to evidentiary standards and compensation for crimes of war-related sexual violence, taking into account international mechanisms, namely Rule 96 and the provisions of the Statute of the International Criminal Court.

## 9. ENDNOTES

1. [https://dorh.hr/sites/default/files/dokumenti/2024-04/DORH\\_Izvje%C5%A1%C4%87e\\_za\\_2023.docx](https://dorh.hr/sites/default/files/dokumenti/2024-04/DORH_Izvje%C5%A1%C4%87e_za_2023.docx)
2. [https://bezbednost.org/wp-content/uploads/2020/06/rodna\\_dimenzija\\_ratnih\\_zloina\\_-\\_bcbp.pdf](https://bezbednost.org/wp-content/uploads/2020/06/rodna_dimenzija_ratnih_zloina_-_bcbp.pdf)
3. [https://assets.publishing.service.gov.uk/media/5a74d5ece5274a3cb2867924/low\\_res\\_PSVI\\_Protocol\\_FULL-BOS.pdf](https://assets.publishing.service.gov.uk/media/5a74d5ece5274a3cb2867924/low_res_PSVI_Protocol_FULL-BOS.pdf)
4. [https://cdn.thejournal.ie/media/2016/11/ebs\\_449\\_en-1.pdf](https://cdn.thejournal.ie/media/2016/11/ebs_449_en-1.pdf)
5. <https://europa.eu/eurobarometer/surveys/detail/32526>
6. According to data from the Bureau for imprisoned and missing of the Department of Veterans, 7 666 individuals were exchanged during the war, and out of that number 932 were women.
7. <https://aem.hr/wp-content/uploads/2023/01/6.-Muskarci-su-cetvrtina-prezivjelih.pdf>
8. [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html)
9. The Petrograd Declaration on the prohibition of the use of explosive missiles less than 400 grams from 1868, the Hague conventions and Declarations from the Peace Conferences of 1899 and 1907, the Second Hague Declaration on the prohibition of the use of Grains with Contaminant and Poisonous Gases from 1899, The Third Hague Declaration on the Prohibition of the Use of dum-dum bullets from 1899, The Third Hague Convention on the beginning of hostilities from 1907, The Fourth Hague Convention on the laws and customs of the war on land with the Rules from 1907, the Fifth Hague Convention on rights and obligations of neutral forces and persons in case of war on land from 1907; Sixth Hague Convention on treatment of enemy commercial ships in the outbreak of hostilities from 1907; Seventh Hague Convention on the Conversion of commercial boats into war ones from 1907; Eighth Hague Convention on the bombing of naval forces during the war from 1907; The Eleventh Hague Convention on some limitations on the exercise rights in maritime war, 1907; The Thirteenth Hague Convention on the rights and duties of neutral nuclear power in the naval war from 1907 and the Declaration on the prohibition of throwing missiles and bomb explosives, 1907), four agreements on the protection of an individual during the war (Convention on the Improvement of the Position of Military Warring on the Battlefield, 1864 Convention on the Improvement of the Position of Wounded and Patients in the Army during the War with the Final Protocol to the Revision of the Geneva Convention of 1906; the Tenth Hague Convention on adaptation to the maritime war of the principles of the Geneva Conventions from 1907 and the International Convention on sanitary navies, from 1904) and around 250 provisions regulating the most important issues and laying down the basic rules of war.

10. [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_bcs.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_bcs.pdf)

11. UN Sub-Commission on the Promotion and Protection of Human Rights, Systematic rape, sexual slavery and slavery-like practices during armed conflict: final report – Gay J. McDougall, Special Rapporteur, 22 June 1998 E/CN.4/ Sub.2/1998/13, available at: <http://www.refworld.org/docid/3b00f44114.html>

12. <https://mrosp.gov.hr/UserDocsImages/dokumenti/Socijalna%20politika/Protokol%20o%20postupanju%20u%20slu%C4%8Daju%20seksualnog%20nasilja.pdf>

13. <https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=celex:32012L0029>

14. <https://hrcak.srce.hr/file/368115>

15. Rules procedure evidence (IT/32/Rev. 50) MKSJ, [https://www.icty.org/x/file/Legal%20Library/Rules\\_procedure\\_evidence/IT032Rev50\\_bcs.pdf](https://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032Rev50_bcs.pdf)

16. ICTY's verdict Kunarac and others, <https://www.icty.org/x/cases/kunarac/acjug/bcs/kun-aj020612b.pdf>

17. More in Radačić, 2014.

18. <https://www.icty.org/bcs/specijali/zlo%C4%8Dini-seksualnog-nasilja/u-brojkama>

19. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

20. <https://asp.icc-cpi.int/states-parties>

21. Based on the existing regulations, that is the Law on the Rights of Croatian Homeland War Veterans and their family members, 4 women and 2 men achieved the status of HRVI from the Homeland War on the basis of detention and rape in the camp and establishing an organism damage ranging from 50% to 100%. Pursuant to the Law on Protection of Military and Civilian War Invalids, the status of the civilian war invalids was given to 10 women due to the enduring physical and psychological trauma of rape.

22. These remarks were expressed by NGO's Centar za žene žrtve rata – ROSA, Ženska mreža Hrvatske i Inicijativa za ženski sud in the article by Marina Tkalčić on the news website Libela – "Klasifikacija patnje žrtava seksualnog nasilja", <https://www.libela.org/sa-stavom/6369-klasifikacija-patnje-zrtava-seksualnog-nasilja/>

23. UN Secretary-General. Reparations for Conflict- 17) Related Sexual Violence Guideline , June 2014, page 5.

24. <https://mpudt.gov.hr/UserDocsImages/27405?lang=hr>

# 10. LITERATURE

**1. Background Information on Sexual Violence Used as a Tool of War (n.d.). United Nations.** Available at: <https://www.un.org/en/preventgenocide/rwanda/assets/pdf/Backgrounder%20Sexual%20Violence%202014.pdf>

**2. Borba protiv nekažnjivosti za seksualno nasilje u oružanom sukobu u Bosni i Hercegovini: postignuti napredak i izazovi (2015).** Misija OSCE-a u Bosni i Hercegovini. Available at: <https://www.osce.org/sites/default/files/f/documents/9/4/117054.pdf>

**3. Croatia failing victims of wartime sexual violence: NGOs (2023).** Balkan Insight, 31. srpnja 2023. Available at: <https://balkaninsight.com/2023/07/31/croatia-failing-victims-of-wartime-sexual-violence-ngos/>

**4. Direktiva 2012/29/EU Europskog parlamenta i Vijeća o uspostavi minimalnih standarda za prava, potporu i zaštitu žrtava kaznenih djela (2012).** Europska unija. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=celex:32012L0029>

**5. Eurobarometer Survey 3252 (2010).** Europska unija. Available at: <https://europa.eu/eurobarometer/surveys/detail/3252>

**6. Granice međunarodnoga kaznenog prava: Jesu li žene napokon unutar granica?** Radačić, I. (n.d.). Available at: <http://www.women-war-memory.org/index.php/hr/rat-i-ratna-silovanja/86-granice-medunarodnog-kaznenog-prava>

**7. In from the margins (2017).** Clark, J. N. Journal of Human Rights Practice, University of Birmingham. Available at: [https://pure-oai.bham.ac.uk/ws/portalfiles/portal/26139691/Clark\\_In\\_from\\_the\\_margins\\_Journal\\_Human\\_Rights\\_Practice\\_Post\\_Print.pdf](https://pure-oai.bham.ac.uk/ws/portalfiles/portal/26139691/Clark_In_from_the_margins_Journal_Human_Rights_Practice_Post_Print.pdf)

**8. Izvješće za 2023. godinu (2024).** Državno odvjetništvo Republike Hrvatske. Available at: [https://dorh.hr/sites/default/files/dokumenti/2024-04/DORH\\_Izvje%C5%A1%C4%87e\\_za\\_2023.docx](https://dorh.hr/sites/default/files/dokumenti/2024-04/DORH_Izvje%C5%A1%C4%87e_za_2023.docx)

**9. Klasifikacija patnje žrtava seksualnog nasilja.** Tkalčić, M. (n.d.). Available at: <https://www.libela.org/sa-stavom/6369-klasifikacija-patnje-zrtava-seksualnog-nasilja/>

**10. Kontakti odjela za podršku žrtvama i svjedocima,** Ministarstvo pravosuđa, uprave i digitalne transformacije Republike Hrvatske. Available at: <https://mpudt.gov.hr/UserDocImages/27405?lang=hr>

**11. Masovna silovanja u ratu (n.d.).** Ženska memorija. Available at: <http://www.women-war-memory.org/index.php/hr/povijest/rat-i-ratna-silovanja>

**12. Međunarodni protokol o dokumentiranju i istraživanju seksualnog nasilja u sukobima (2014).** United Nations. Available at: [https://assets.publishing.service.gov.uk/media/5a74d5ece5274a3cb2867924/low\\_res\\_PSVI\\_Protocol\\_FULL-BOS.pdf](https://assets.publishing.service.gov.uk/media/5a74d5ece5274a3cb2867924/low_res_PSVI_Protocol_FULL-BOS.pdf)

**13. Muškarci su četvrtina preživjelih (2023).** Agencija za elektroničke medije. Zagreb. Available at: <https://aem.hr/wp-content/uploads/2023/01/6.-Muskarci-su-cetvrtina-prezivjelih.pdf>

**14. Načela za izmjenu Zakona o kaznenom postupku za omogućavanje odgovarajućeg okvira za kazneno procesuiranje (2013).** Inicijativa mladih za ljudska prava – Hrvatska. Zagreb.

**15. Nacionalni akcijski plan provedbe Rezolucije Vijeća sigurnosti UN-a 1325 (2000) o ženama, miru i sigurnosti za razdoblje 2019.–2023. (2019).**

**16. Ministarstvo vanjskih i europskih poslova RH.** Available at: <https://mvep.gov.hr/informacije-konzularni-portal/ugovori-dokumenti-i-obrasci/dokumenti/nap-ii/27171>

**17. Odluka o donošenju Nacionalne strategije razvoja sustava podrške žrtvama i svjedocima u Republici Hrvatskoj za razdoblje od 2016. do 2020. godine (2015).** Narodne novine 75/15. Available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html)

**18. Postupanje u predmetima ratnih zločina (2016).** Dolmagić, J. Zagreb: Pravosudna akademija. Available at: <https://www.pak.hr/cke/obrazovni%20materijali/Postupanje%20u%20predmetima%20ratnih%20zlocina.pdf>

**19. Procjena broja žrtava seksualnog nasilja tijekom Domovinskog rata na području Republike Hrvatske i optimalni oblici obeštećenja i podrške žrtvama (2013).** UNDP. Zagreb.

**20. Protokol o postupanju u slučaju seksualnog nasilja (2023).** Vlada Republike Hrvatske. Available at: <https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Protokol%20o%20postupanju%20u%20slu%C4%8Daju%20seksualnog%20nasilja/2023/Protokol%20final.pdf>

**21. Rimski statut Međunarodnog kaznenog suda (1998).** Available at: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

**22. Rodna dimenzija ratnih zločina: Seksualno nasilje nad ženama (2017).** Kostić, M. Beogradski centar za bezbednosnu politiku. Available at: [https://bezbednost.org/wp-content/uploads/2020/06/rodna\\_dimenzija\\_ratnih\\_zloina\\_-\\_bcbp.pdf](https://bezbednost.org/wp-content/uploads/2020/06/rodna_dimenzija_ratnih_zloina_-_bcbp.pdf)

**23. Seksualno nasilje – mitovi, stereotipi i pravni sustav (2014).** Radačić, I. Zagreb.

**24. Seksualno nasilje u brojkama (2016).** Međunarodni kazneni sud za bivšu Jugoslaviju. Available at: <https://www.icty.org/bcs/specijali/zlo%C4%8Dini-seksualnog-nasilja/u-brojkama>

**25. Silovanje i seksualno nasilje kao radnje počinjenja kaznenog djela ratnog zločina (2014).** Kastratović, V. U: Procesuiranje ratnih zločina – jamstvo procesa suočavanja s prošlošću u Hrvatskoj. Zagreb: Documenta.

**26. Smjernice Generalnog tajnika – reparacije za seksualno nasilje povezano sa sukobima** (2014). Available at: <http://old.documenta.hr/assets/files/Sudjenja/ECHR/Smjernice-Generalnog-sekretara-o-reparaciji-CRSV-BOS.pdf>

**27. Special Eurobarometer 449 – Gender-based Violence** (2016). Europska komisija. Available at: [https://cdn.thejournal.ie/media/2016/11/ebs\\_449\\_en-1.pdf](https://cdn.thejournal.ie/media/2016/11/ebs_449_en-1.pdf)

**28. Stanje seksualnih prava žena u Hrvatskoj u 2005.** (2006). Mamula, M. Ženska soba.

**29. Statut Međunarodnog kaznenog suda za bivšu Jugoslaviju** (2009). Available at: [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_bcs.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_bcs.pdf)

**30. Suzbijanje posljedica seksualnog nasilja u ratu** (2016). UNFPA Program BiH. Available at: <https://ba.unfpa.org/sites/default/files/pub-pdf/bosanski01.pdf>

**31. Systematic rape, sexual slavery and slavery-like practices during armed conflict** (1998). United Nations. Available at: <http://www.refworld.org/docid/3b00f44114.html>

**32. Transitional Justice Brief** (2016). Inicijativa mladih za ljudska prava – Hrvatska. Zagreb.

**33. UN Security Council Resolution 2467** (2019). United Nations. Available at: [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2467.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2467.pdf)

**34. What happened to the women? Gender and Reparations for Human Rights Violations** (2006). Rubio-Marin, R. International Center for Transitional Justice.

**35. Zaštita žrtava u kaznenom postupku – praktična implementacija Direktive 2012/29/EU** (2020). Bezić, R.; Šprem, P. Zagreb: Pravni fakultet. Available at: <https://hrcak.srce.hr/253328>

**36. Žrtva u kaznenom postupku – novi položaj u hrvatskom kaznenopravnom sustavu** (2016). Burić, Z. Available at: <https://hrcak.srce.hr/file/232866>

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