
"GREY AREA": ABORTION ISSUE IN CROATIA

**Nataša Bijelić &
Amir Hodžić**

ABSTRACT:

This paper involves analysis and mapping of relevant stakeholders, legislation, policy and practice of the issue of abortion on demand in the Republic of Croatia in year 2014, with the aim of obtaining better insights and contributing to the understanding of the overall situation. Data collection methods that were used included focus group discussion, individual semi-structured interviews, written submissions and statements. Questions and problems related to the abortion issue belong to the "grey area", thus characterized by: inadequate state regulation, deficiencies in the abortion records, cases of medical corruption and official misconduct, variability of medical treatment (high) cost on regional and hospital level and the incidence of conscientious objection. With all of the above, as well as with traditional, patriarchal stigmatization of women who voluntarily terminate pregnancy, along with current neoconservative threats - the accessibility and safety of legal abortions in Croatia is difficult. Further difficulties are the result of the indifference of managing structures of the health care system that do not accept responsibility for the failures in regulation and supervision. In the current situation, it is essential that the Ministry of Health and other relevant stakeholders in the health sector take affirmative actions to promote the options for materialisation of women's reproductive rights. Given the findings of this study, with the aim of achieving the accessibility and safety of abortion on demand, it is necessary to ensure the accessibility of the procedure in all qualified institutions - regulate cases of conscientious objection, sanction abortion procedures in private gynaecological practices, standardize procedures and costs, and make all information (on procedures, costs ...) available on the Internet.



This report is a part of the project **#InTheNameof Love** carried out by **Zagreb Pride Organization** and **CESI**. It is supported by a grant from **Open Society Foundations**.

English translation by: Alina Čabraja

CESI, 2014.

I INTRODUCTION

According to the tenth revision of the International Classification of Diseases of the World Health Organization, code O04 indicates legally induced termination of pregnancy or medical abortion. In the Republic of Croatia, according to the Croatian National Institute of Public Health (CNIPH) for the year 2013, there were 3816 medical terminations of pregnancies under that designation, representing 35% of the total reported abortions¹. If this information is put in relation to the number of births in the same year, the resulting rate of 105 legally induced abortions per 1,000 births, positions Croatia among the states of the European Union (EU) with the currently lowest such ratio². In contrast, according to reports from gynaecological primary health care practices in the Republic of Croatia in the year 2013, 89.928 visits were recorded requiring services for family planning and prescription contraceptives³, representing about 9% of the total number of women of child-bearing age (972.948). With a steadily decreasing number of births in the last five years (from 43.776 (2008) to 39.962 (in 2013)), the official state statistics illustrate a rather confusing picture of women's reproductive health in Croatia - a very low rate of induced abortion, assumed low frequency of use of contraception⁴, with a negative trend of the birth rate.

Such discrepancies in official data, along with the notorious case "Practice" ("Ordinacija") that exposed corruption, falsification of documents and abuse of office of a group of gynaecologists in Varaždin hospital (Špac, 2013) in addition to two cases of conscientious objection related to women's right to decide on their reproductive health (listed in the report of the Office Ombuds-person for Gender Equality in 2013), have prompted this analysis and mapping of relevant stakeholders, legislation, policies and practices regarding issues of induced abortions. This was led by the aim of obtaining better insights and contributing to the understanding of the overall situation. The study was conducted by the Centre for Education, Counselling and Research (CESI) team, within the project "#InTheNameOfLove", carried out in partnership with Zagreb Pride Organization, with financial support from Open Society Foundations. Results presented in this paper stem from an analysis of existing relevant documents, articles from the media and data gathered from the consulted stakeholders. Methods of data collection included focus group discussion, individual semi-structured interviews and written submissions and statements.

This study was designed in the beginning of 2014 and carried out in the first half of the year, during a period of intense imposing of neoconservative groups and initiatives in Croatia to set the "problem" of legally available medical abortion on the public agenda. Above mentioned groups, which

¹ 20% of spontaneous abortions/miscarriages were recorded, while other types of abortion amounted to 45% (Poljičanin&Benjak, 2014).

² For the year 2012 an average rate for EU countries amounts to 216, after Croatia, the lowest rate was recorded in Belgium and the Netherlands (152 and 154), while at the other end of the scale there were Romania, Bulgaria, Estonia and Hungary with rates higher than 400 (World Health Organization, 2014).

³ The most commonly used contraceptives are oral (86%) and intrauterine (8%) (Poljičanin&Benjak, 2014).

⁴ Croatia is, along with Cyprus and Fiji, the only country with more than 100,000 women of childbearing age (15-49 years) married or in partnership, where there is no data available for indicators of the frequency of use of contraception in order to monitor the achievement of the Millennium Development Goal 5B - Universal access to reproductive health (United Nations, 2013).

have in the last couple of years been actively working on preventing the introduction of health and civic education in schools, and have managed to introduce, via a referendum, a discriminatory constitutional provision that defines marriage as a bond between a man and a woman, have now directed the implementation of their ideology of “family, life and religious freedom” in an attempt to deny legal termination of pregnancy. Strategies of their actions tend to display individual rights of the citizens of Croatia, (such as the right to information and sexual and gender equality education, the equal right to marriage, the right to free and autonomous decisions about one’s own body and reproductive health), as a matter of choice justified by “freedom of religious belief”, around which then, they create a discourse of cultural and ideological conflict and deep divisions within Croatian society.

Threats to legally regulated, accessible and safe medical abortion in Croatia began in early 1991, when Ružica Ćavar, president of the Croatian Movement for Life and Family, filed a motion to review the constitutionality of the Act on health measures for the realization of the right to freely decide on the childbirth, dating from the year 1978, a legal document still relevant and regulating the issue of legal abortion⁵. Over the next two decades, efforts to ban or hinder the availability of medical abortion in Croatian hospitals were characterized by requests of the Croatian Bishops’ Conference (CBC), the Croatian Party of Rights (HSP), pamphlets and leaflets by Antun Lisec to be found in the hospital waiting rooms and student clinics, plus the case of screening (and subsequent ban) of an explicit film “Silent Scream” in high school religious education classes⁶. Likewise, even the visits of the pontiff of the Catholic Church and the Holy Seat were used for media exposure of the messages on “the inviolability of human life from conception” as well as for the demands for revision of the law.

In recent years, the neoconservative groups largely expand their activities to the area of the Internet. Consequently, in year 2012 an online portal “Abortion Clinic” appears, featuring visually and textually manipulated sources of objective data related to the termination of pregnancy, thus providing selective information for the purpose of public intimidation. The following year, a profile “Pro-life Croatia”⁷ appears on the social network Facebook. With the Croatian accession to the EU, local groups become more directly involved in similar initiatives at the European level, so, in the period of July to November 2013 Croatian Association for Life “CRO-VITA” organized public collection of signatures for a European initiative “One of Us”⁸ that was supported by CBC by open call to members of the Church to get actively involved and sign this initiative⁹. In December of the same year, in a joint interview for one of the national weekly newspapers, Stjepo Bartulica, president of the association Centre for the Renewal of Culture and Vice John Batarelo president of the

⁵ To date, a decision at the request has not been made. However, in 2009, the Constitutional Court in relation to this request, sent a query to University Hospital Centre Zagreb requesting the opinion of the medical profession about abortion and the answer to the question “when does the life begin?”. The opinion of the Ethics Committee of the University Hospital Centre Zagreb was that life begins with the joining of male and female reproductive cells”, i.e. conception. This argument was later used by the initiative “I too was an embryo” in attempts to challenge the Law on Medically Assisted Reproduction.

⁶ This event from 2004 initiated firstly the media debate, and soon afterwards, public and political debate on sex education in schools in Croatia. For the analysis of these issues, see Bijelić (2008) and Hodžić et al (2012).

⁷ Several news web portals also appeared at this time (dnevno.hr; narod.hr) displaying highly targeted promotion of the ban/restriction of medical abortion.

⁸ For analysis of the neoconservative initiatives in Europe see Hodžić&Bijelić (forthcoming in 2014)

⁹ The website of the CBC made available a list of organizations in the Republic of Croatia that “stand up for life” (http://obitelj.hbk.hr/index.php?option=com_content&task=view&id=82&Itemid=74).

association Vigilare and Head of Office for the Pastoral Care of Family Archdiocese of Zagreb and an external member of the Parliamentary Committee on Diaspora, said: "As social conservatives, we believe that the right to life is a basic human right. That question should most certainly become an open issue in Croatia. Why should this issue be a taboo? But how should we open this - we do not yet know" (Hudelst, 2013).

"Opening taboo issues", i.e., focussing the public attention on the issues of legally regulated abortion intensified in 2014, when in January of this year, the Family Party organized a panel discussion on the topic of "Abortion - Right or a Crime against Humanity?". The next month, Croatian National Radio and Television broadcasted a documentary on the issue of abortion titled "The White Plague". Then, in March and April, the Centre for Unborn Life Bethlehem conducted a prayer campaign "40 Days for Life" (originally launched in 2004 in the U.S.) in order to "end abortion" in the Clinical Hospital Centre Sisters of Mercy in Zagreb, while Petra Tišljarić, one of the campaign coordinators, commented: "we are a praying initiative and our commitment ends here. If someone is motivated by this for further action, or to launch a referendum - all the better" (Trbušić, 2014). Finally, in May, Centre for Renewal of Culture and Vigilare organized a lecture by Lila Rose, extreme "anti-choice" activist from the United States, who declares herself that she came to Croatia to "contribute to the creation of a stronger pro-life movement" and that "changes in legislation and restricting of abortion" are necessary (Fabrio, 2014). Her statements about legitimate medical abortion attempted to manipulate and intimidate, using discourses of "violation of human rights of children", "legacy of communism" and "women crying, vomiting and bleeding due to trauma of abortion" (Fabrio, 2014). Intimidation technique is the basis for public actions "against the killing of unborn children", carried out in the first half of June in Split, by Croatian Association Benedict, where leaflets and materials with explicit photographs were distributed in the public (Marinić, 2014). Strategic organisational synchronization of these initiatives is confirmed by the closing speech of Bartulica and Batarelo at the "festival of progressive culture", where they stated that "the year 2014 is the year of the struggle for life and the beginning of a debate on the right to life" (Narod.hr, 2014).

I LEGISLATION

In Croatia, the termination of pregnancy is regulated by the Act concerning the medical measures for materialization of the right to freely decide on the birth of children (Official Gazette 614/78), which was adopted in 1978, in the former state of the Socialist Federal Republic of Yugoslavia (SFRY). A mainstay for the adoption of that law was the SFRY Constitution from the 1974 containing principle constitutional human right to freely decide on childbirth (Art. 191)¹⁰. In Croatia women can legally terminate pregnancy without the consent of the Commission of First Instance, if the pregnancy does not exceed ten weeks. According to the same law and based on the decision by the Ministry of Health Care from the 1996, an abortion can be performed only by authorized health institutions (e.g., hospitals with an organized gynaecology and obstetrics unit).

The socialist legacy of this Law is the basis on which demands for its amendments were based over the years. There were two attempts to amend the existing regulations of abortion - in 1995 and 1996. A special Commission of the Ministry of Health Care has in 1995 drafted a Law on Abortion that has never made it to the parliamentary procedure. The second attempt was related to the Proposal of the Law on Abortion, which was in 1996 filed by Croatian Party of Rights (HSP) and which sought to ban abortion. It was an attempt of political election promotion by HSP. Health Care Minister¹¹ rated the proposal of the law on the prohibition of abortion as averse to modern European legislation and the principles of the World Health Organization. Also, the Minister in his response informed the government that the Ministry of Health Care prepared a new set of laws which recommends a comprehensive set of measures for family planning, reducing the number of abortions, artificial insemination and sterilization, but which have not been presented to the public to this day, as well as any other bill on abortion (Rittossa, 2005).

Feminist groups and civil society organizations had a significant role in prevention of the introduction of restrictive legislation. In 1995, women's human rights group B.a.B.e. in cooperation with other women's organizations, collected 20,000 petition signatures opposing the legal prohibition of abortion - which certainly had an impact on the withdrawal of the preparation of the new set of laws by of the Ministry of Health Care. Additionally, women feminist organizations officially responded to the HSP's proposed abortion ban. Consequently, that proposal was never discussed in Croatian Parliament (Shiffman, Škrabalo and Subotić, 2002).

¹⁰ Croatian Constitution as the fundamental legal act does not contain a provision on the human right to freely decide on childbirth. The adoption of the new Constitution in 1990 omitted constitutional provisions on reproductive rights under Article 191 of the Constitution of the SFRY and Article 272 of the Constitution of the Federal Republic of Croatia (Rittossa, 2005).

¹¹ The health care minister at the time was Andrija Hebrang (CDU).

PERFORMING AN ABORTION ON DEMAND

Abortion on demand is allowed until the expiry of ten weeks from the date of conception, and after that period only if approved by a designated Commission of First Instance, in cases where, on the medical grounds, life cannot be preserved or there is a risk of serious health damage of woman during pregnancy, childbirth or after childbirth; when on the basis of medical indications and findings of medical science, it can be expected that a child will be born with severe congenital physical or mental defects or if conception occurred due to crime of rape, sexual intercourse with physically helpless or mentally incapacitated person, abuse of position rape, sexual intercourse with a child or incest. Abortion should not be performed if it is determined that it could severely harm women's health.

Standardized procedures related to the provision of information on abortion procedures or standard gynaecological examination of a woman who wants to perform an abortion are not regulated by the Ministry of Health (MH), but they vary depending on particular hospital institution. According to gathered information, in a case of one hospital, the process begins when a woman with a request for termination of pregnancy reports to the hospital reception desk and is referred to the gynaecological clinic for examination. Examination includes gynaecological and ultrasound examination to determine pregnancy. A woman is being introduced with the potential risks of abortion in detail. This internal medical risk form, according to some experts, "overemphasizes" risks of a procedure that is considered "routine". Next, a woman fills out a form with personal data, while on the reverse of the same form, a gynaecologist fills out information related to pregnancy and requested medical procedure. A designated physician signs the form and the data is then entered into the hospital abortion records. Each "small scale" surgery as well as abortion holds its own book of records. A woman is scheduled for abortion procedure in a few days. After the procedure is performed the woman is released from the hospital, usually after a few hours. Abortion costs vary by region and hospitals, and ranges from 990 to 2500 HRK (approx. 130-330 EUR).

Malfeasances are not uncommon here, which is why in 2010 seven specialist physicians were detained due to performed terminations of uncomplicated, but unwanted pregnancies for which they charged a monetary amount of between 1000 and 2500HRK, retaining the fees for themselves. Later, they have counterfeited medical documentation for the performed procedures displaying them as justified due to alleged pathological pregnancies, invoicing them and charging the Croatian Institute for Health Insurance (CIHI), thus committing a financial fraud towards CIHI. A year later, doctors indicted for practicing illegal abortions were found guilty in the court in Varaždin, and in addition to prison sentences and monetary fines, they were also banned from practicing medicine (Horvat, 2011).

In particular hospital facility where the offenses were committed, according to the head of the Department of Obstetrics and Gynaecology, legal procedures for the abortion on demand include the following: any woman up to the tenth week of pregnancy can have an abortion on demand. Following consultations, her primary gynaecologist fills out a form that states that a woman is seeking an abortion and refers her to the hospital physician who will perform the abortion. In the hospital the woman signs a form of consent to the procedure and pays a sum of 1.000 HRK, for which she receives a receipt (Horvat&Flegar, 2010).

DATA COLLECTION ON TERMINATED PREGNANCIES

In Croatia, the institution responsible for collection, monitoring and analysis of data on pregnancy terminations is the Croatian National Institute of Public Health (CNIPH), that is, the Department of Public Health. Data related to the termination of pregnancy is collected electronically via forms that health institutions are obliged to submit to CNIPH on a monthly base. Despite the legal obligation (Annual implementation plan of statistical research), all health institutions do not yet report on the terminations of pregnancy in the prescribed form, and according to information from CNIPH the reports are often incomplete. The lack of registered data is a result of “socially conditioned” terminations of pregnancy (abortion on demand) being recorded through the daily activities of hospital without the entrance to the Hospital Information System (HIS), and thus without filling the legally required form entitled “Registration of Abortions”.¹² According to CNIPH, the reasons for such bad practices can be found in the high workload of health care workers, patient privacy and ultimately, the lack of concern by the people responsible for filling the forms. Beginning the 2014, CNIPH made aware the MH of the lack of registered records on abortion. It has also announced that it will undertake activities to increase the overall coverage, especially when it comes to abortion, for which there is no strict medical indication other than it is “socially conditioned”.

¹² The form contains patient’s personal information, information on hospital stay and medical history. Patient’s data includes: name, social security number of the insured person, residence, marital status, education, employment status, occupation.

I AVAILABILITY

Although it is legally permitted, it is clear that the termination of pregnancy, for various reasons, is difficult to realize for women in Croatia. The MH states that abortion can be performed in any given hospital that has ensured an organized unit of Gynaecology and Obstetrics, and its Head should ensure a team of experts ready to perform termination of pregnancy¹³. However, the mechanisms for monitoring and control are not present because, as stated by the MH for the purpose of this study:

“There is no department, no committee, nor any person in the Ministry responsible to particularly deal with the issue of abortion and enforcement of the Law on health measures for realization of the right to freely decide on childbirth. The implementation of the right to the service of abortion, in accordance with the law, is to be provided by designated healthcare facilities in the same manner in which they are providing any other health services, since abortion procedure is just one of many procedures in gynaecology”.

This attitude indicates not only the renouncing of authority and responsibility by the MH, but the complete autonomy of health institutions when it comes to abortion - which ultimately results in limited availability and a certain degree of legal and medical uncertainty for women.

Also, based on the query of women’s civil society organisations stating that many hospitals respond negatively to direct demand for an abortion procedure, MH accentuate its capacity to examine the reasons for certain actions undergone by healthcare institutions only when all the data of a particular case is known¹⁴. Officially, there are no concrete cases because women do not address the matter with the responsible institutions and do not want to talk about their negative experiences, as evidenced by the practice of the office of the Ombudsperson for Gender Equality (OGE)¹⁵. When it comes to the availability of these services to minors, a 16 year old girl can terminate pregnancy on demand without parental permission. According to the gynaecologists’ reports with girls younger than 18 years of age the procedure is done under general anaesthesia and what they must obtain is parental/guardian consent permitting full (general) anaesthetic, not permission for abortion. As the law on abortion is not aligned with other laws, that leaves a space for manipulation. For example, under the Law on Protection of Patients’ Rights, in the article 17 it is stated that for the under legal age persons consent or approval is given by legal representative or guardian, and according to Croatian laws, persons under 18 years of age are considered under legal age (OG 169/04, 37/08).

¹³ The Ministry of Health, Department of Legal and Financial Affairs. Zagreb, November 29, 2013. Class:032-01/13-01/118. Reg.:534-10-1-1-2/1-13-4. Subject: Women’s Platform +2

¹⁴ The Ministry of Health, Department for Health Protection. Zagreb January 20th 2014. Class: 053-02/13-01/1350. Reg.:534-07-1-1-1 / 1-14-2. Subject: Open Letter from organizations that participated in the conference “Women’s Platform +2” on the basis of a discussion at the panel “Women’s right to choose.”

¹⁵ However, the accounts shared on various internet forums (forum.hr; forum.roda.hr) talk about negative experiences and difficult access to these medical services.

Abortions in Croatia, according to the data from CNIPH, are carried out in 32 medical institutions (Poljičanin&Benjak, 2014). However, abortion is not effortlessly available in every hospital authorized for this service. In 2012, for the purpose of a newspaper article on abortion, a survey on the availability of abortion was conducted. A sample of ten hospitals was selected, where based on the statistics on abortions, some discrepancies in the data compared to other institutions, were observed. These ten selected hospitals from various parts of Croatia were contacted in writing and by phone. Only one hospital, out of ten, immediately provided complete and clear information about availability of abortions on demand in their hospital. All other contacted hospitals stated that they do not perform abortions or allow them only for medical reasons, following an approval by the Commission of First Instance - or they refused to give information or otherwise limited the availability of the procedure, for example, only to women who have temporary/permanent residence in the area of the particular city (Knežević&Grgić, 2012).

One more journalist survey was conducted in twenty hospitals in Croatia with regard to conscientious objections by medical doctors. The data showed that the largest share of physicians that filed conscientious objection is in Zagreb (e.g., in Zagreb University Hospital, the largest hospital with Obstetrics and Gynaecology Unit in Croatia, where 40 physicians filed a conscientious objection whereas only five of total perform abortions). In some hospitals, due to conscientious objections abortions are not being performed whatsoever, as is the case in Našice General County Hospital, Požega GH, Vinkovci GH and Knin GH. However, hospitals where there are no cases of any filed conscientious objections are GB Šibenik, GB Pula and Rijeka Clinical Hospital (Turčin, 2014).

Aside from some hospitals that refuse to perform abortions and unavailability of that service in small towns, the problem of availability is expressed in high cost of abortion on demand, which is not covered by the Health Insurance Fund and which varies from region to region and from hospital to hospital. Performing abortions in private practices represents a sort of a taboo. Although legally prohibited, it can be observed through various unofficial sources of information that abortions are being performed in private practices or in hospitals where majority of doctors filed conscientious objection but are still performing the procedure off hours. One of explanations offered for why abortions are performed in private clinics is that a certain number of women want privacy since this procedure still holds public stigma and condemnation. The stigmatization of abortion is a sign of a patriarchal society (Galić, 2006).

In Croatia, an abortion induced by medical drugs (a pill known as RU-486) is not legally allowed. Drugs used to induce abortions in this case cause symptoms identical to those that occur in the case of a miscarriage.

CONSCIENTIOUS OBJECTION

"Subjected to Change (of Hearts)"

"If you are doing the job, if you have chosen it, then you cannot do 20% of the job. Then you should not have gone for the job. Anyone who is studying to become a gynaecologist knows what the job involves!" (Gynaecologist, quote from an interview)

According to the findings from consulted stakeholders from hospitals, conscientious objection of gynaecologists was non-existent in the former state of Yugoslavia; it started to occur in the mid-1990s. Conscientious objection is closely linked to the religious and moral attitudes of a person. A hospital, as a state institution funded by public funds, is required to perform abortion and in such case it is difficult to justify conscientious objection if it poses an obstacle to the realization of the rights of women. Conscientious objection might be more fitting in cases where the hospitals are funded by religious institutions, but this is not the case in Croatia. Official statistics on the conscientious objection do not exist. CNIPH does not collect the data, and there are no records about the exercise of the right to conscientious objection by the hospital staff. Instead it is regulated at the individual level of each health institution. There are only assessments stating the cases in particular hospitals. Hence, in Zagreb hospitals, such as University Hospital Centre Zagreb, at least half of the gynaecologists filed conscientious objection, in Clinical Hospital Holy Spirit more than 90% of them, while at Clinical Hospital Centre Rijeka there is not a single person that filed conscientious objection (Marčinković&Plantak, 2010).

"I would call conscientious objection as a physician's luxury. I do not accept that some exercise this 'luxury', while others are doing their job, and at the same time we all receive the same salary. As long as the hospital is a designated medical institution which performs abortions, I believe that there should not be a differentiation between gynaecologists." Prof. Herman Haller, director of the Clinical Hospital Centre Rijeka (Horvat&Flegar, 2010)

The issue of conscientious objection is regulated by Law on Medical Practice, which states that "for the sake of their ethical, religious or moral beliefs a doctor has the right to file conscientious objection and refuse to perform diagnosis, treatment and rehabilitation of the patient, if it does not conflict with the rules of profession and if this does not cause permanent damage to the health or the patient's life. One should promptly inform the patient on such decision and refer them to other appropriate medical experts" (Official Gazette 121/03, 117/08, Art. 20). Equally, Nursing Act allows conscientious objection for nurses (OG121/03, 117/08, 57/11, Art. 3).

Croatian Medical Chamber (CMC) in its Code of Medical Ethics and Deontology also emphasizes the right of physicians to conscientious objection (OG 55/08, Art. 2). CMC is not acquainted with the

functioning of conscientious objection of gynaecologists in hospitals, and the practice of this professional medical association shows that there was no need for discussion on this issue¹⁶. CMC refers to hospitals as relevant and responsible for the issue of conscientious objection.

In hospital practice, conscientious objection covers various aspects: Some persons use the right to file conscientious objection only for abortion on demand, and some for other procedures (i.e. amniocentesis, incomplete abortion or procedures related to inadequate pregnancy development). Conscientious objection is also a right that is experiencing abuse; for example, according to information provided by individual physicians, some persons during specialisation perform abortions as part of their work, and upon finishing specialisation discontinue with that practice. Hospitals, on the other hand, vary in regulation of this issue. At the hospital level, gynaecologists have to make a statement about the conscientious objection to their superiors. The statement may be spoken and is some hospitals given only once, while in other hospitals one needs to sign a form, which is renewed after a certain period of time (usually on annual basis). According to information gathered from the hospitals, it is an internally defined hospital document, rather than a standardized form, since this issue is not regulated at the level of the MH.

In practice, conscientious objection by hospital staff, such as nurses, is less present than the doctors', but according to findings from the consulted stakeholders, such cases do exist (for example, a nurse who refuses to assist in placing the intrauterine device or provide information about emergency contraception). The most recent media exposed case is one from year 2013, when the midwife Jaga Stojak from the hospital Croatian Pride in Knin, refused to assist the physician in the medical abortion by citing conscientious objection¹⁷. Croatian Chamber of Midwives on the occasion stated that Midwifery Act (as opposed to the Nursing Act and the Medical Profession Act that provide the option for conscientious objection for nurses and doctors) does not provide the option to file conscientious objection for midwives, though the same is provided in the Code of Ethics for Midwives (Večernji list, 2013).

Office of the OGE has received two complaints related to conscientious objection in the last two years. The first complaint concerned the case of a pharmacy store that refused to issue a doctor's prescription contraceptive. Gender Equality Ombudsperson decided that in this particular case a pharmacy cannot exercise this right collectively since the right to conscientious objection is an individual, personal right, which is why the pharmacy must organize a mode by which at least one person employed will not exercise the right to conscientious objection. So, in this particular case the rejection to issue the prescribed contraceptive is contrary to Article 6, Paragraph 4 of the Gender Equality Act (Official Gazette 82/08), and that in practice, has particularly adverse effects for women, due to the fact that they are denied the right to freely decide on sexual and reproductive rights (Office of the OGE, 2014).

¹⁶ In CMC they point out that at the sessions of the Commission for ethics and deontology this issue was not specifically elaborated because there was no need.

¹⁷ Jaga Stojak was fired because she, in June 2013, on account of religious beliefs refused to assist in performing an abortion. She got fired on the grounds of Article 107 of the Labor Law, due to the committed misconduct by refusing to perform a work task. Due to media exposure of the entire case, the hospital withdrew the decision to fire, and two months later Jaga Stojak returned to work. The Catholic Church and neoconservative organizations close to the Church praised this act, and so in May of 2014 Jaga Stojak received a "Recognition Award for promoting human dignity and culture of life" from the hands of the U.S. "anti-choice" activist Lila Rose on a neo-conservative rally called "Kulfest" held in Zagreb.

Another case concerned a conscientious objection by a doctor from CH Split, who has refused to prescribe a “morning after pill” to an 18 year old, telling her that that would ruin her life and that it is a mean of abortion. OGE Office issued a warning and recommendation to a health care institution, stating that every woman has the right to freely decide on their sexual and reproductive rights and health, including the right to use contraceptives, as well as the right to full, complete and timely information regarding the exercise of these rights. Also, it is the OGE’s recommendation that each patient should be given timely and complete information related to one’s health and that in exercising the right to conscientious objection the rights of women to exercise of sexual and reproductive rights should not be abused (OGE Office, 2014).

Some authors believe that conscientious objection in the area of reproductive health (in case of abortion and contraception) is actually a “dishonourable disobedience” that reaches the level of gender discrimination. Health professionals by exercising conscientious objection right use their position of authority to impose personal beliefs to patients who are completely dependent on them and the health care they provide. Conscientious objection undermines the legal right to health care and calls for discrimination against persons in need of certain services in public institutions, and is inconsistent with the ethical obligation to serve the public (Fiala&Arthur, 2014).

I FINAL CONSIDERATIONS

In the last few years we have witnessed the ever increasing number of and progressively intensive attempts to obstruct access to legal medical service of pregnancy termination in Europe as well as direct threats towards the reproductive rights of women to decide on issues of their own body. Consequently, in Spain, a law has been adopted at the parliamentary debate, according to which abortion is permitted only in cases of rape or if the pregnancy poses a serious physical or mental health risk for women, while the Lithuanian parliament is to vote on adoption of the proposal of the Law on the Protection of Life in the Prenatal Stage, which considers abortion a criminal act that can be sanctioned with up to three years in prison. In Macedonia, in the 2013 a Law on Abortion was adopted that allows an abortion once a year, with mandatory submission of a written request and confirmation of the gynaecologist on the performed ultrasound examination, as well as the obligatory consultation on “the benefits of continuing the pregnancy”, informing the husband if a woman is married and a period of three days of waiting until the performance of abortion. Access to the second abortion is possible only if it is determined that the pregnancy possesses a threat to woman’s life, in the case of rape or incest and if the doctors determine that the child will be born with severe physical disabilities. Termination after the tenth week of pregnancy is approved by a special commission formed by the designated ministry.

In Croatia in 2014, the right to legal, accessible and safe abortion is not (yet) necessary to defend outside or in the Parliament, but it is important to realistically assess the strength of neoconservative interest groups - their ability to organize and strategically network (even at the European level¹⁸), the ability to mobilize citizens, as well as the support provided by the CBC. It should also be borne in mind that there are “channels of power” through which ideas created at the “festivals of progressive culture” and “prayer actions” are articulated in political demands. An example of this is one of the (dismissed) amendments that Club of the CDU members of Parliament filed for the Family Law that was adopted in June of 2014, and which aspired to include that “the child has a right to live from the moment of fertilization”¹⁹ to the children’s right.

While the current law from 1978 allows women to freely decide on the termination of pregnancy, at the same time one can observe the obsolescence of this legislation, its groundlessness in the laws of the Republic of Croatia and the current health care system, as well as its incompatibility with modern medical and scientific development. On the other hand, any new attempt of legal regulating of this area can be dangerous and may lead to potential restriction of the availability of abortion, particularly if taken into account the current social climate characterized by the strengthening and consolidation of the neoconservative groups and the strong influence of the Catholic Church. It is worth noting that, according to research by the Office of the OGE, religious education textbooks that are still in regular school use, discuss the topic of abortion as murder²⁰.

¹⁸ For analysis of the neoconservative groups in Europe see Hodžić&Bijelić (forthcoming in 2014).

¹⁹ Croatian Parliament, CDU MP Club. Zagreb, 28 May 2014, Class: 022-03/13-01/293. Reg.: 6532-1-14-01. Subject: Amendments to the final proposal of family law, second reading, P.Z.E. No. 544.

²⁰ Let us recall that, not so long ago, in the school year 2007/8 in regular classes a biology textbook for 8th grade was used in which there was the following sentence (subsequently omitted at the request of the OGE), “induced abortion terminates the lives of human beings and endangers health of women.”

Questions and problems related to abortion in Croatia belong to the “grey area”, that is characterized by inadequate government regulation, deficiencies in data records and monitoring of induced abortions, cases of medical corruption and abuse of office, hospital and regional variability of (high) costs of medical procedure and the increased rate of conscientious objections. With all of the above, as well as with traditional, patriarchal stigmatization of women who voluntarily terminated pregnancy, plus the current neoconservative threats, availability of abortion in Croatia is difficult.

Additional dark shades of this “grey situation” are the result of indifference of the managing structures of the health system, including MH and CMC, which do not take responsibility for the failures in regulation and supervision, but quote laws and refer to the rules and procedures of individual hospitals, which differ significantly in practice. On the other hand, recent activities undertaken by CNIPH (improvement of monitoring parameters of gynaecological activity) and the Office of the OGE (official inquiries to hospitals in relation to conscientious objection) seek to provide realistic insights into the practice of abortion in Croatia.

Abortion on demand in the Republic of Croatia is a legally allowed medical procedure, availability and security of which allows women to own and control decisions about their reproductive health and life. In the current situation, in 2014, characterized by tendencies of multiple delay in access to abortion and neoconservative threats to legal and safe abortion, it is necessary that the MH and other stakeholders in the health sector take affirmative actions that would improve the possibilities of materialisation of women’s reproductive rights. Given the findings of this study, and with the aim of availability and safety of induced abortion, it is necessary to:

- » ensure the availability of abortion on demand in all authorized institutions;
- » regulate cases of conscientious objections;
- » sanction abortions in private gynaecological practices;
- » standardize procedures and rates;
- » make all the information (procedures, price ...) available on the Internet.

REFERENCES AND SOURCES OF INFORMATION

Bijelić, N., 2008, *Sex education in Croatia: Tensions between secular and religious discourses*. European Journal of Women's Studies 15 (4): 329–343.

Code of medical ethics and deontology. Available at <http://www.propisi.hr/print.php?id=3346> (Accessed 3/2/2014).

Fabrio, B., 2014, *In Croatia the abortion is an industry: do you know that you annually kill ten thousand children!*. Globus, 1224: 40-46.

Fiala, C. & J.H. Arthur, 2014, *"Dishonourable disobedience" – Why refusal to treat in reproductive healthcare is not conscientious objection. Woman – Psychosomatic Gynaecology and Obstetrics*. Available at <http://dx.doi.org/10.1016/j.woman.2014.03.001> (Accessed 21/6/2014).

Galić, B., 2006, *Stigma or Respect? Reproductive Status of Women in Croatia and Beyond*. Croatian Journal of Sociology, XXXVII (3–4): 149–164.

Hodžić, A. & N. Bijelić, forthcoming in 2014, *Neoconservative threats to sexual and reproductive rights in the European Union*. Zagreb: CESI.

Hodžić, A. et al 2012, *The politics of youth sexuality: Civil society and school-based sex education in Croatia*. Sexualities 15(3-4): 494-514.

Horvat, M. & S. Flegar, 2010, *Illegal abortions in the hospital were performed by doctors late at night*. Available at <http://www.24sata.hr/news/ilegalne-abortuse-u-bolnici-su-lijecnici-radili-kasno-u-noc-195302> (Accessed 19/5/2014).

Horvat, M., 2011, *Varaždin gynaecologists are to blame for illegal abortions in the hospital*. Available at <http://www.24sata.hr/crna-kronika-news/varazdinski-ginekolozi-krivi-su-za-ilegalne-abortuse-u-bolnici-242063> (Accessed 19/5/2014).

Hudelist, D., 2013, *Plan for a conservative Croatia "Should the question of abortion be an open issue? Why is it a taboo?"*. Available at <http://www.jutarnji.hr/ekskluzivni-intervju-stjepo-bartulica-i-vice-batarelo--nas-plan-za-konzervativnu-hrvatsku/1146078/> (Accessed 16/5/2014).

Knežević, S. & H. Grgić, 2012, *How much are abortions truly "legal" in Croatia?* Available at <http://www.libela.org/sa-stavom/3006-koliko-je-abortus-zapravo-legalan-u-hrvatskoj/> (Accessed 3/2/2014).

Marčinković, D. & D. Plantak, 2010, *Action "Practice" ("Ordinacija"): "They are the best, who will deliver us now?"*. Available at <http://www.vecernji.hr/hrvatska/akcija-ordinacija-oni-su-najbolji-tko-ce-nas-sada-poroditi-205805> (Accessed 19/5/2014).

Marinić M., 2014, *An action against killing unborn children commenced in Split*. Available at <http://zdravstveniodgoj.com/news/u-splitu-zapocela-akcija-protiv-ubijanja-nero-ene-djece> (Accessed 06/12/2014).

Narod.hr, 2014, *Pro-life activist at Kulfest*. Available at <http://narod.hr/hrvatska/lila-rose-sto-se-dogada-kad-zanijecemo-pravo-na-zivot-nerodenog-djeteta-takva-drzava-ne-moze-napredovati/> (Accessed 18/5/2014).

Nursing Act. Available at <http://www.zakon.hr/z/407/Zakon-o-sestrinstvu> (Accessed 02/03/2014).

Office of the Ombudsman for Gender Equality, 2014, *Report for the year 2013*. Available at <http://www.prs.hr/index.php/izvjesca/izvjesce-o-radu-za-2013> (Accessed 17/05/2014).

Poljičanin, T. & T. Benjak (Ed.), 2014, *Croatian Health Service Yearbook for the year 2013*. Zagreb: Croatian National Institute of Public Health.

Rittossa, D., 2005, *Controversy about the right to abortion on demand in the Republic of Croatia*. Collected Papers of the Faculty of Law, University of Rijeka, 26 (2): 971-997.

Rodin, U., Erceg, M., Belic, D. & Z. Lesjak 2013, *Terminated pregnancies in health institutions in Croatia in 2012*. Zagreb: Croatian National Institute of Public Health.

Shiffman, J., Škrabalo, M. & J. Subotić, 2002, *Reproductive Rights and the State in Serbia and Croatia*. *Social Science & Medicine* 54 (4): 625-642. Available at <http://faculty.maxwell.syr.edu/jrshiffman/papers/reproductive%20rights%20and%20the%20state%20in%20serbia%20and%20croatia.pdf> (Accessed 07/04/2014).

Špac, L. 2013, *The Case "Practice" ("Ordinacija"): Three gynaecologists sentenced to prison and banned from medical profession!*. Available at <http://www.jutarnji.hr/slucaj-ordinacija-davor-fara-oskar-kirchbaum-i-zoran-pitner-dobili-zatvorske-kazne-i-zabrane-bavljenja-lijecnistvom-/986508/> (Accessed 17/05/2014).

The Law on Medical Practice.

Available at <http://www.zakon.hr/z/405/Zakon-o-rije%C4%8Dni%C5%A1tvo> (Accessed 03/02/2014).

The Law on the Protection of Patients' Rights.

Available at <http://www.zakon.hr/z/255/Zakon-o-za%C5%A1titi-rights-patients> (Accessed 03/07/2014).

Trbušić, D., 2014, *Prayer and fasting against the killing of unborn children*.

Available at: <http://www.zg-nadbiskupija.hr/default.aspx?id=12060> (Accessed 04/05/2014).

Turčin, K., 2014, *Two-thirds of doctors in Zagreb filed a conscientious objection and refuse to perform abortions*.

Available at <http://www.jutarnji.hr/dvije-trecine-lijecnika-u-zagrebu-ulozilo-priziv-savjesti-i-ne-zeli-izvoditi-pobacaje-/1173704/> (Accessed 12/06/2014).

United Nations, 2013, *World Contraceptive Patterns 2013*.

Available at <http://www.un.org/en/development/desa/population/publications/family/contraceptive-wall-chart-2013.shtml> (Accessed 16/05/2014).

Večernji list, 2013, *Case of a midwife from Knin: Midwives are entitled to a conscientious objection*.

Available at <http://www.vecernji.hr/hrvatska/slucaj-babice-iz-knina-primalje-imaju-pravo-na-priziv-savjesti-604015> (Accessed 23/05/2014).

World Health Organization, 2014, *European Health for All database*.

Available at <http://data.euro.who.int/hfad/> (Accessed 16/05/2014).

LIST OF STAKEHOLDERS CONSULTED

- B.a.B.e., Zagreb
- CESI-Centre for Education, Counselling and Research, Zagreb
- CGI-Centre for Civic Initiatives, Poreč
- Domine, Split
- Croatian Medical Chamber
- Croatian Institute for Public Health
- University Hospital Sisters of Mercy, Zagreb
- Clinical Hospital Centre Zagreb, Zagreb
- The Ministry of Health of the Republic of Croatia
- RODA-Parents in Action, Zagreb
- The Office of the Ombudsperson for Gender Equality
- Women's Room-Centre for Sexual Rights, Zagreb