

# Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War

NN [64/15](#) , [98/19](#)

in force from 01.01.2020

## TITLE I. BASIC PROVISIONS

### Article 1.

This Act defines sexual violence in the Homeland War during the armed aggression against the Republic of Croatia, established by the Declaration on the Homeland War, in the period from 5 August 1990 to 30 June 1996 (hereinafter: the Homeland War) in the Republic of Croatia or during detention in an enemy camp or prison outside the territory of the Republic of Croatia and the status and rights of victims of sexual violence in the Homeland War.

### Article 2

(1) Sexual violence in the Homeland War is that which is committed contrary to criminal regulations, ie international humanitarian law and the Geneva Conventions, as a criminal offense of war crime or crime against humanity, and a criminal offense against sexual freedom which does not qualify as a war crime or crime against humanity , but was committed in circumstances directly related to the aggression against the Republic of Croatia in the Homeland War, during the activities of all armed forces, military, police and paramilitary units and groups such as:

- vaginal, anal or oral penetration of a sexual nature by any part of the body or object into the body of another person
- injury with serious consequences such as removal, circumcision or other form of mutilation of all or any part of a person's genitals
- causing a violent pregnancy
- causing abortion
- deprivation of a person's biological reproductive ability
- sexual enslavement
- another form of sexual violence of comparable severity.

(2) Sexual violence referred to in paragraph 1 of this Article is that committed against another person without his consent or by the use of force or threat, and by inducing another person to perform the act referred to in paragraph 1 of this Article without himself or against a third person. article (hereinafter: sexual violence).

### Article 3

A victim of sexual violence within the meaning of this Act is a person against whom, or who, in the circumstances of detention, has committed himself or a third person to

commit one or more forms of sexual violence referred to in Article 2 of this Act by a military or police person, and members of paramilitary units and groups or a civilian who has been instigated or coerced into committing sexual violence by those persons.

#### Article 4

In the procedure for exercising the rights referred to in this Act, the General Administrative Procedure Act shall apply.

#### Article 5

In the procedure for exercising the rights referred to in this Act, the principles of gender equality and equality shall be applied, without discrimination of the party on any grounds.

#### Article 6

The Republic of Croatia ensures the exercise of the rights under this Act in accordance with the principles of social solidarity and justice.

#### Article 7

A party and other participants in the proceedings have the right to use their own language, including the sign language of persons with whom, due to physical and other difficulties, they cannot otherwise communicate, with a permanent court interpreter or sign language interpreter, unless this right is give up.

#### Article 8

The rights referred to in this Act shall be exercised at the expense of the state budget of the Republic of Croatia, from the budget positions of the ministry responsible for veterans (hereinafter: the Ministry), unless otherwise prescribed by special regulations.

#### Article 9

Terms used in this Law that have a gender meaning are used neutrally and refer equally to the masculine and feminine genders.

## **CHAPTER II COMMISSION FOR VICTIMS OF SEXUAL VIOLENCE**

#### Article 10

- (1) The Commission for Victims of Sexual Violence (hereinafter: the Commission) is an independent, expert body that gives an opinion on whether a party is a victim of sexual violence and on the form or consequences of sexual violence.
- (2) The Commission shall consist of seven members, each of whom shall have a deputy.
- (3) The Secretary of the Commission is a law graduate, ie a master of law employed in the Ministry appointed by the Minister responsible for veterans (hereinafter: the Minister).
- (4) The Ministry shall perform administrative and technical tasks for the Commission.
- (5) The Minister shall prescribe by an ordinance the structure, manner of work and decision-making, forms of findings and opinions of the Commission and other issues important for the work of the Commission.

### **[1. Rulebook on the structure and manner of work of the Commission for Victims of Sexual Violence](#)**

#### Article 11

(1) The Minister shall appoint the members of the Commission and their deputies and shall appoint from among them the President of the Commission and his deputy for a term of four years.

(2) Prior to the appointment referred to in paragraph 1 of this Article, interested candidates shall be invited to submit an application. Applications received on the basis of a public call do not bind the Minister in the election of members of the Commission and their deputies.

(3) As an exception to paragraph 2 of this Article, the members of the Commission and their deputies from the ranks of doctors of medicine shall be appointed by the Minister on the proposal of the Minister responsible for health.

(4) In the event of a failed public invitation referred to in paragraph 2 of this Article, the Minister shall directly appoint the members of the Commission and their deputies.

(5) The members of the Commission and their deputies shall be elected in such a way as to ensure gender equality.

(6) The Minister shall dismiss the members of the Commission and their deputies before the expiration of the term for which they were appointed:

- at their personal request
- due to irregular and unscrupulous performance of work in the Commission
- due to the impossibility of performing tasks in the Commission for other reasons.

#### Article 12

(1) The members of the Commission and their deputies shall be elected from among judges, lawyers and other lawyers, psychologists, doctors of psychiatry, infectology, dermatology and venereology, gynecology, internal medicine oncology or other specializations and other experts with experience in the field of human rights protection. .

(2) The commission consists of at least one lawyer, psychologist, doctor of medicine specializing in psychiatry and doctor of medicine of another specialization.

(3) A person may be appointed as a member of the Commission and his deputy who:

- is a citizen of the Republic of Croatia
- has completed undergraduate and graduate university study or integrated undergraduate and graduate university study of the relevant profession
- has at least 10 years of work experience in the profession
- has not been convicted and against whom no criminal proceedings have been instituted for criminal offenses for which proceedings are initiated ex officio
- has a permit for independent work (license) if he is a doctor of medicine.

(4) In addition to the conditions referred to in paragraph 3 of this Article, priority in the appointment shall be exercised by a person who meets any of the following conditions:

- has experience in working with war victims, ie victims of sexual violence
- has experience in working on criminal cases, ie proceedings related to the Homeland War
- has a strong tendency to protect the rights and interests of victims of various forms of violence
- is a prominent expert in his field of work.

### Article 13

(1) The Commission shall act upon the request of an official in the Ministry.

(2) The Commission shall give an opinion on whether a party is a victim of sexual violence on the basis of medical and other documentation, taking into account:

- facts and evidence established in criminal proceedings
- final court judgments rendered in proceedings related to the commission of sexual violence in the Homeland War
- other evidence.

(3) The Commission shall give an opinion within 30 days from the day of receipt of the case, on the prescribed form.

## CHAPTER III STATUS AND RIGHTS OF VICTIMS OF SEXUAL VIOLENCE

### Status of a victim of sexual violence

#### Article 14

The status of a victim of sexual violence (hereinafter: status) may be determined when, in addition to the conditions prescribed by this Act, the following conditions are met:

- that the party is a citizen of the Republic of Croatia or a member state of the European Union
- that the party had a registered residence or domicile in the territory of the Republic of Croatia at the time of the commission of sexual violence
- that the Commission gave a positive opinion
- that the party was not a member, helper or collaborator of enemy military and paramilitary units or was legally convicted for participating in enemy military and paramilitary units, or for endangering the constitutional order and security of the Republic of Croatia.

### The rights of victims of sexual violence

#### Article 15

(1) A victim of sexual violence, whose status has been determined by a decision of the Ministry (hereinafter: the beneficiary) may exercise the right to:

1. psychosocial help
2. legal aid
3. medical care
4. medical rehabilitation
5. medical systematic examination
6. compulsory and supplementary health insurance
7. accommodation in an institution for providing support and services to the veteran-suffering population and other persons
8. monetary compensation.

(2) The rights prescribed by this Act are personal rights and may not be transferred to another person.

(3) The rights prescribed by this Act may not be inherited, except for the due and unpaid amount of monetary compensation.

#### The right to psychosocial and legal assistance

##### Article 16

(1) The holder of the organization of psychosocial and legal assistance is the Ministry.

(2) The assistance referred to in paragraph 1 of this Article shall be provided by the Ministry, ie centers for psychosocial assistance that cooperate with health and other institutions and citizens' associations that have experience in the implementation of that assistance.

(3) Within the National Program of Psychosocial and Health Assistance to Participants and Victims of the Homeland War, World War II and Returnees from Peacekeeping Missions, the Ministry shall develop measures to provide psychosocial and other forms of assistance to improve the quality of life and resocialization of beneficiaries and family members. society.

#### Psychosocial help

##### Article 17

(1) The beneficiary and members of his family may exercise the right to psychosocial assistance in connection with the consequences of sexual violence.

(2) Psychosocial assistance consists of individual psychosocial counseling, group psychosocial treatment and information.

#### Legal help

##### Article 18 (OG [98/19](#) )

(1) The user may exercise the right to legal aid (primary) for exercising the rights under this Act and other rights on the basis of sexual violence, which includes:

- providing general legal information (general and general legal instructions)
- giving legal advice (complete instructions on the manner and possibilities of resolving, ie exercising rights)
- preparation of submissions before public bodies, the European Court of Human Rights and international organizations in accordance with international agreements and rules of operation of these bodies
- legal assistance in the procedure of out-of-court peaceful settlement of disputes.

(2) Legal assistance referred to in this Article, in addition to the Ministry or centers for psychosocial assistance, shall be provided by the competent administrative bodies in the counties, ie the City of Zagreb as entrusted to the state administration and authorized associations.

#### The right to medical care

##### Article 19

The beneficiary may be entitled to medical assistance in connection with the consequences of sexual violence in the regional centers for psychotrauma and the National Center for Psychotrauma.

#### The right to medical rehabilitation

## Article 20

(1) The user may exercise the right to medical or physical rehabilitation, if there are no contraindications for the same, once in two years for up to 15 days, and according to the established need.

(2) The need of the user for rehabilitation referred to in paragraph 1 of this Article shall be determined by the Commission for the Approval of Hospital Medical Rehabilitation at the Ministry.

### The right to a systematic medical examination

## Article 21

The user may exercise the right to a systematic medical examination once a year to the extent determined by the Minister in an ordinance.

### The right to compulsory and supplementary health insurance

## Article 22

(1) The user may exercise the right to compulsory and supplementary health insurance if he does not exercise this right on another basis at the expense of the state budget of the Republic of Croatia.

(2) The user may exercise the right to free treatment of infertility, chronic sexually transmitted diseases and other diseases resulting from sexual violence.

The right to be placed in an institution for the provision of support and services to the war veteran population and other persons

## Article 23

The user may exercise the right to accommodation in an institution for the provision of support and services to the veteran-suffering population and other persons, established by the Ministry, in accordance with the regulations on the establishment and use of the services of the said institution.

### Entitlement to monetary compensation

## Article 24

(1) The user may exercise the right to a one-time amount of monetary compensation in the amount of HRK 100,000.00 or increased monetary compensation in the amount of HRK 150,000.00, under the conditions prescribed by this Act.

(2) In addition to the one-time cash or increased cash benefit referred to in paragraph 1 of this Article, the beneficiary may receive a monthly cash benefit, under the conditions and in the amount prescribed by this Act.

(3) The due and unpaid amount of monetary compensations referred to in paragraphs 1 and 2 of this Article shall be inherited by the heirs of the beneficiaries in accordance with the regulations on inheritance.

(4) The monetary compensation referred to in paragraphs 1 and 2 of this Article shall not be considered compensation for the entire damage for all the consequences of sexual violence suffered.

### **a) Increased cash compensation**

## Article 25

(1) The user may exercise the right to increased financial compensation on the following grounds:

- forced pregnancy resulting from sexual violence
- forced abortion as a result of sexual violence
- the birth of a child due to a forced pregnancy resulting from sexual violence
- sexual violence committed against a minor.

(2) The beneficiary may receive an increased monetary compensation when the Commission has determined the existence of one or more grounds referred to in paragraph 1 of this Article.

(3) The increased monetary compensation shall be realized in one amount regardless of the existence of several bases referred to in paragraph 1 of this Article.

### **b) Monthly cash benefit**

#### Article 26

(1) The user may receive a monthly monetary compensation in the amount of 73% of the budget base determined by the law prescribing the execution of the state budget of the Republic of Croatia.

(2) The right to a monthly monetary compensation shall be determined on the first day of the month following the day of the submission of a proper request, unless otherwise prescribed by this Act.

(3) In the event of the death of the beneficiary, the termination of the right to a monthly cash benefit shall be determined on the last day of the month in which he died.

### **c) The right of heirs**

#### Article 27

(1) Heirs of the first hereditary order and adoptees (hereinafter: heirs) behind a victim of sexual violence who died before the entry into force of this Act, under the conditions prescribed by this Act may exercise the right to financial compensation referred to in Article 24, paragraph 1 of this Act, with appropriate application of Article 25 of this Act.

(2) The status of a deceased victim of sexual violence referred to in paragraph 1 of this Article shall be proven by a final court judgment on the committed sexual violence.

(3) If the victim of sexual violence died before the court judgment referred to in paragraph 2 of this Article becomes final, the capacity of a victim of sexual violence shall be proven by a criminal report of the victim, ie direct proof that she was a victim of sexual violence against the perpetrator.

(4) The heirs shall exercise the right referred to in paragraph 1 of this Article in the following order:

- by mutual agreement
- if they do not reach a mutual agreement, the right is exercised by those who had a common residence with the victim of sexual violence at the time of her death, in equal parts
- if there are no conditions from subparagraphs 1 and 2 of this paragraph, the right is exercised by those who inherited the rights and obligations behind the deceased victim of sexual violence, in equal parts.

## CHAPTER IV PROCEDURE FOR ACQUIRING STATUS AND EXERCISING RIGHTS

### Request to initiate proceedings

#### Article 28

- (1) The procedure for acquiring the status and exercising the rights referred to in this Act (hereinafter: the procedure) shall be initiated by a party, its legal representative or proxy.
- (2) The request referred to in paragraph 1 of this Article shall be submitted to the Ministry on the prescribed form.
- (3) The request must be accompanied by evidence at the disposal of the applicant, on the facts important for the exercise of the rights referred to in this Act.

### Participation of a party in the proceedings

#### Article 29

- (1) A party shall directly participate in the proceedings and shall be heard in a manner that is least traumatic for him, with the application of the principle of gender sensitivity.
- (2) By way of derogation from paragraph 1 of this Article, a party need not be heard, when a final court judgment has been obtained, a statement given before the competent authorities or other direct evidence that the party is a victim of sexual violence.

### Establishing facts and acting on requests

#### Article 30

- (1) The Ministry shall decide on the party's request by a decision, based on the established factual situation.
- (2) Before issuing the decision referred to in paragraph 1 of this Article, except in proceedings initiated at the request of the heir referred to in Article 27 of this Act, the opinion of the Commission shall be obtained.
- (3) The official person conducting the procedure shall refer the case to the Commission within 30 days from the day of receipt of the proper request referred to in Article 28 of this Act.
- (4) No appeal shall be allowed against the decision referred to in paragraph 1 of this Article, but a dissatisfied party may initiate an administrative dispute with a lawsuit.

#### Article 31

- (1) The Ministry shall also decide on the request for financial compensation, ie monthly financial compensation, by a decision on the recognition of status.
- (2) The executive decision on the recognized status referred to in paragraph 1 of this Article is the basis for exercising the rights referred to in this Act.

#### Article 32

- (1) For the purpose of establishing the facts, a medical expertise may be requested from the health institution proposed by the Commission.
- (2) The fact of detention in an enemy camp or prison shall be established by a certificate from the competent state administration body.
- (3) The Ministry shall, ex officio, obtain data on facts about which other state bodies keep official records.

#### Article 33

(1) The user, ie the heir referred to in Article 27 of this Act shall be obliged to report to the competent authority within 15 days any change in the facts on which the exercise or scope of the recognized right under this Act depends.

(2) The Minister shall elaborate the conditions for acquiring the status and exercising the rights provided by this Act and the right to reimbursement of transport costs referred to in Article 34, paragraph 3 of this Act, the scope of the right to medical systematic examination referred to in Article 21 of this Act; as well as application forms for exercising the rights from this Law, and findings and opinions for exercising the right to medical rehabilitation.

## 2. Ordinance on the conditions and manner of exercising the status and rights of a victim of sexual violence in the Homeland War

### Exercise costs

#### Article 34

(1) Regular costs of the procedure shall be borne by the state budget of the Republic of Croatia.

(2) In the procedure of exercising the right under this Act, the parties are exempted from paying the administrative fee.

(3) A party may exercise the right to reimbursement of transport costs to another place in order to exercise the rights referred to in this Act.

### Identity protection and data confidentiality

#### Article 35

Members of the Commission, their deputies, officials and other persons participating in the proceedings or otherwise learning about the facts related to the proceedings are obliged to ensure the protection of the party's identity, conduct the proceedings with the exclusion of the public and ensure the confidentiality of collected data. .

### Procedure and prosecution

#### Article 36

(1) The user shall also exercise the rights referred to in this Act if the person who committed the sexual violence referred to in Article 2 of this Act is unknown.

(2) Decisions determining the status and rights referred to in this Act shall not affect the decisions of the competent bodies on the fact of committing sexual violence referred to in Article 2 of this Act.

(3) The Ministry shall report to the competent body the information on the criminal offense, ie on the committed sexual violence referred to in Article 2 of this Act.

## **CHAPTER V. EXERCISE OF RIGHTS IN OTHER PROCEEDINGS**

#### Article 37

(1) A person may exercise the rights referred to in this Act if he has not exercised them on the same basis in another state.

(2) A person who has exercised the right to a personal disability allowance under other regulations in the Republic of Croatia may exercise the rights under this Act, except for the right to a monthly cash benefit.

(3) As an exception to paragraph 2 of this Article, a person who has exercised the right to personal disability allowance under other regulations in the Republic of Croatia on the basis of sexual violence may exercise the right to a monthly allowance, under the conditions determined by this Act. written statement.

(4) In the case referred to in paragraph 3 of this Article, the right to personal disability allowance on the basis of sexual violence, exercised under other regulations, shall cease on the day of exercising the right to a monthly cash benefit.

(5) A beneficiary who has exercised the right to personal disability allowance, compensation for damage or other monetary right in other proceedings and other regulations in the Republic of Croatia, on the basis of experienced sexual violence, shall be entitled to financial compensation referred to in Article 24, paragraph 1 of this Act. by taking into account the amount realized by the day of submitting a proper request referred to in Article 28 of this Act.

(6) The exercise of the right under this Act does not exclude the right of the user as the injured party to claim damages or other monetary right in other proceedings on the basis of sexual violence, but the realized monetary compensation referred to in Article 24, paragraph 1 of this Act shall be included. the beneficiary may be requested to refund the amount paid up to the amount of the paid financial compensation referred to in Article 24, paragraph 1 of this Act.

(7) The Republic of Croatia shall have the right of recourse from the pest, ie legally convicted persons for the committed sexual violence referred to in Article 2 of this Act up to the amount of the paid monetary compensation.

#### RETURN OF UNFOUNDED ACQUIRED

##### Article 38

(1) A user who has unjustifiably acquired a right under this Act and who has failed to report any change in the facts on which the exercise or scope of a recognized right under this Act depends, is obliged to return incorrectly paid monetary amounts, ie amounts received on the basis of unlawfully realized rights under this Act.

(2) The claim referred to in paragraph 1 of this Article shall become statute-barred upon the expiry of the period determined by the law governing the statute of limitations for that type of right, ie claim and shall run from the day of enforcement of the decision

#### CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

##### Article 39

For regular applications submitted by 30 November 2015, exceptionally from Article 26, paragraph 2 of this Act, the exercise of the right to a monthly cash benefit shall begin on 1 January 2016.

##### Article 40

(1) The Minister shall issue the ordinances referred to in Article 10, paragraph 5 and Article 33, paragraph 2 of this Act within 90 days from the day this Act enters into force.

(2) The Minister shall appoint the members of the Commission within 90 days from the day this Act enters into force.

##### Article 41

This Act shall enter into force on the eighth day following that of its publication in the Official Gazette.

***Transitional and final provisions from OG 98/19***

Article 2

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2020.